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USURY LAWS

EIR NATURE, EXPEDIENCY, AND INFLUENCE

IONS OF JEREMY BENTHAM AND JOHN CALVIN, WITH
REVIEW OF THE EXISTING SITUATION AND RECENT
EXPERIENCE OF THE UNITED STATES BY
RICHARD H. DANA, Jr., DAVID A. WELLS
AND OTHERS

NEW YORK
THE SOCIETY FOR POLITICAL EDUCATION
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1881

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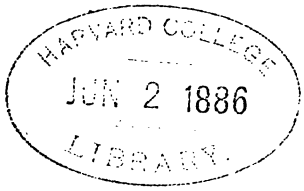

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PREFACE.

IN no one department of economic science in the United States is there more of old, blind, unreasoning prejudice, more of opposition to the progress of liberal ideas, and more of ignorance of the world's experience, than in respect to the so-called "*usury laws.*" Nearly all of the leading nations of Europe have, as the result of centuries of experience, abolished them. Fourteen of the present (1881) forty-seven states and territories of the Federal Union have wiped them off their statute books. And in no instance has any permanent bad effect been proved to have followed their repeal; neither has any state which has for any reasonable period tried the two systems of restriction or freedom in respect to contracts for the loan of capital been known to go back to the policy of restriction. Notwithstanding this record of experience, great states like New York, Virginia, and Oregon retain upon their statute books laws—which they cannot enforce—for the regulation of the loan of capital, which are patterned after the legislation of the dark ages, and obstinately resist any attempt to amend or repeal them.

The Executive Committee of the Society for Political Education are of the opinion, therefore, that they can render no better service to the cause of economic truth and to their members, than by presenting in a compact and readable form, the leading facts and arguments bearing on the liberal side of this question. They accordingly offer in this, the *fourth* tract of their series of economic publications, 1st, The substance of the famous series of letters written by Jeremy Bentham of England, in 1787, in defence of usury, and which after the lapse of nearly a century since their first publication, are still acknowledged to be unsurpassed for their clearness and cogency of argument. It was from the perusal of these letters that Adam Smith is said to have been led

to entirely change the views on the subject of usury which he entertained at the time of his writing "The Wealth of Nations." It is also interesting to note that they were republished by order of the Legislature of the State of New York, in 1837, for distribution as a public document; but apparently with no beneficial result so far as the influencing the opinion of the people of New York was concerned. The only part of the original text of these letters which has been here omitted is that which has no bearing of interest on the present condition of affairs in the United States. 2d, The famous letter of John Calvin, written in 1579, in which this famous theologian denies that the authority of the Scriptures is adverse to the lending of money for interest or usury; and also for the first time refutes the doctrine of the Greek philosopher, Aristotle, —then almost universally accepted, that "money was barren"; *i. e.*, incapable of producing anything, and that therefore the taking of anything for its use was contrary to nature and not to be defended. 3d, The best modern and popular discussion of the subject, in the shape of a speech before the House of Representatives of the State of Massachusetts in 1867, by Hon. Richard H. Dana, Jr.,—a speech which is said to have been mainly instrumental in inducing the Legislature of that state to forthwith repeal its former statutes in respect to usury, and make freedom rather than restriction the rule henceforth within its territory in respect to the borrowing and lending of money. 4th, A review of the present status and recent experience in respect to usury laws in the United States and Europe, with some additional arguments on the subject by David A. Wells.

Text books on political economy and fiscal science, while generally treating of the usury laws, seldom enter with any great fulness upon the discussion of the subject. The present publication will, therefore, it is believed, supply a want which has heretofore existed.

New York, September, 1881.

BIBLIOGRAPHY.

IT is suggested to the readers of this tract, who may not find themselves familiar with the theory of interest, with the analysis of its elements, and with the economic laws which regulate its rate, that they will do well to also read and acquaint themselves with this topic. For this purpose, the following articles or authors may be consulted:—

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Report by and Evidence taken before the Select Committee of the House of Commons on the Usury Laws. London, 1818.

Memorial of the N. Y. Chamber of Commerce on Usury Laws. N. Y., 1867.

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Vignon, L. F., Du Prêt à Intérêt.

Encyclopædia of Commerce, Article "Interest," by Smith Homans.

Appleton's Encyclopædia, Johnson's Encyclopædia, Encyclopædia Britannica, Article "Interest."

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Mill's (John Stuart) Political Economy, chap. xxiii. pp. 203, 213; and Walker's (Amasa) Science of Wealth, pp. 289-294.

USURY LAWS:

OR

AN EXPOSITION OF THE IMPOLICY OF LEGAL RESTRAINTS ON THE TERMS OF PECUNIARY BARGAINS; IN THE FORM OF A SERIES OF LETTERS ADDRESSED TO A FRIEND.

BY

JEREMY BENTHAM.

LETTER I.

INTRODUCTION.

January, 1787.

AMONG the various species or modifications of liberty, of which on different occasions we have heard so much, I do not recollect ever seeing anything yet offered in behalf of the *liberty of making one's own terms in money bargains.* From so general and universal a neglect, it is an old notion of mine that this meek and unassuming species of liberty has been suffering much injustice.

The proposition I have been accustomed to lay down to myself on this subject is the following one, viz., that *no man of ripe years and of sound mind, acting freely, and with his eyes open, ought to be hindered, with a view to his advantage, from making such bargain, in the way of obtaining money, as he thinks fit; nor* (what is a necessary consequence), *anybody hindered from supplying him, upon any terms he thinks proper to accede to.*

This proposition, were it to be received, would level, you see, at one stroke, all the barriers which law, either statute or common, have in their united wisdom set up against the crying sin of usury.

On this occasion, were it any individual antagonist I had to deal

with, my part would be a smooth and easy one. "You, who fetter contracts, you who lay restraints on the liberty of man, it is for you" (I should say) "to assign a reason for your doing so." That contracts in general ought to be observed, is a rule, the propriety of which no man was ever yet found wrong-headed enough to deny; and if this case is one of the exceptions (for some doubtless there are) which the safety and welfare of every society require should be taken out of that general rule, it lies upon him, who alleges the necessity of the exception, to produce a reason for it.

This, I say, would be a short and very easy method with an individual; but as the world has no mouth of its own to plead by, no certain attorney by which it can "come and defend this force and injury," I must even find arguments for it at a venture, and ransack my own imagination for such phantoms as I can find to fight with.

In favor of the restraints opposed to the species of liberty I contend for, I can imagine but five arguments.

1. Prevention of Usury.
2. Prevention of Prodigality.
3. Protection of Indigence against Extortion.
4. Repression of the Temerity of Projectors.*
5. Protection of Simplicity against Imposition.

Of all these in their order.

* This letter (No. 13) was specially addressed by Dr. Bentham to Adam Smith, and was designed to meet a point raised by the latter in his "Wealth of Nations" in favor of usury laws; to wit, that the existence of such laws constituted a healthy restraint on the schemes of "projectors"; by which term he evidently meant to mainly designate over-sanguine or enthusiastic inventors. These, Mr. Smith contended, would, through excessive but unwarranted confidence in their projections (schemes), be induced to offer very high rates of interest for the loan of money and so obtain it; and having obtained it would be likely "to waste and destroy it," to the general public detriment; inasmuch, as he expressed it, "a great deal of the capital of the country would be kept out of the hands (of the sober people) which were most likely to make a profitable and advantageous use of it." As the conditions of this discussion have no relevancy to the present state of affairs, and cannot be regarded as now pertinent, letter No. 4 has been omitted from this publication. To those, however, who desire to see it, reference is made to

LETTER II.

Reasons for Restraints—Prevention of Usury.

I will begin with the *Prevention of Usury;* because in the sound of the word *usury* lies, I take it, the main strength of the argument: or, to speak strictly, of what is of more importance than all argument, of the hold which the opinion I am combating has obtained on the imaginations and passions of mankind.

"Usury is a bad thing, and as such ought to be prevented: usurers are a bad sort of men, a very bad sort of men, and as such ought to be punished and suppressed." These are among the string of propositions which every man finds handed down to him from his progenitors: which most men are disposed to accede to without examination, and indeed not unnaturally nor even unreasonably disposed; for it is impossible that the bulk of mankind should find leisure, had they the ability, to examine into the grounds of an hundredth part of the rules and maxims, which they find themselves obliged to act upon. Very good apology this for John Trot: but a little more inquisitiveness may be required of legislators.

You, my friend, by whom the true force of words is so well understood, have, I am sure, gone before me in perceiving, that to say usury is a thing to be prevented, is neither more nor less than begging the matter in question. I know of but two definitions that can possibly be given to usury; one is, the taking of a greater interest than the law allows: this may be styled the *political* or *legal* definition. The other is the taking of a greater interest than it is usual for men to give and take; this may be styled the *moral* one, and this, where the law has not interfered, is plainly enough the only one. It is plain, that in order for usury to be prohibited by law, a positive

Bentham's "Complete Works," which may be found in all large public libraries. It is also interesting to note, that while Adam Smith, at the time he wrote his "Wealth of Nations," was in favor of some legal restraints on the loan of money, a perusal of Mr. Bentham's letters "On Usury," is said to have occasioned a complete reversal of his original opinions.

description must have been found for it by law, fixing, or rather superseding, the moral one. To say, then, that usury is a thing that ought to be prevented, is saying neither more nor less, than that the utmost rate of interest which shall be taken ought to be fixed, and that fixation enforced by penalties, or such other means, if any, as may answer the purpose of preventing the breach of it. A law punishing usury supposes, therefore, a law fixing the allowed legal rate of interest; and the propriety of the penal law must depend upon the propriety of the simply-prohibitive, or, if you please, declaratory one.

One thing then is plain; that, antecedently to custom growing from convention, there can be no such thing as usury: for what rate of interest is there that can naturally be more proper than another? What natural fixed price can there be for the use of money more than for the use of any other thing? Were it not then for custom, usury, considered in a moral view, would not so much as admit of a definition: so far from having existence, it would not so much as be conceivable: nor therefore could the law, in the definition it took upon itself to give of such offence, have so much as a guide to steer by. Custom therefore is the sole basis, which, either the moralist in his rules and precepts, or the legislator in his injunctions, can have to build upon. But what basis can be more weak or unwarrantable, as a ground for coercive measures, than custom resulting from free choice? My neighbors, being at liberty, have happened to concur among themselves in dealing at a certain rate of interest. I, who have money to lend, and Titius, who wants to borrow it of me, would be glad, the one of us to accept, the other to give, an interest somewhat higher than theirs: why is the liberty they exercise to be made a pretence for depriving me and Titius of ours?

Nor has blind custom—thus made the sole and arbitrary guide—anything of steadiness or uniformity in its decisions: it has varied, from age to age, in the same country: it varies from country to country, in the same age: and the legal rate has varied along with it: and indeed, with regard to times past, it is from the legal rate,

more readily than from any other source, that we collect the customary. Among the Romans, till the time of Justinian, we find it as high as twelve per cent; in England, so late as the time of Henry VIII. we find it at ten per cent. Succeeding statutes reduced it to eight, then to six, and lastly to five. In Ireland, it is at six per cent; and in the West Indies at eight per cent, and in Hindostan, where there is no rate limited by law, the lowest customary rate is ten or twelve. At Constantinople, in certain cases, as I have been informed, thirty per cent is a common rate. Now, of all these widely different rates, what one is there that is intrinsically more proper than another? What is it that evidences this propriety in each instance?—what but the mutual convenience of the parties, as manifested by their consent? It is convenience, then, that has produced whatever there has been of custom in the matter. What can there then be in custom, to make it a better guide than the convenience which gave it birth? and what is there in convenience, that should make it a worse guide in one case than in another? It would be convenient to me to give six per cent for money: I wish to do so. "No," says the law, "you shan't." Why so? "Because it is not convenient to your neighbor to give above five for it." Can anything be more absurd than such a reason?

Much has not been done, I think, by legislators as yet, in the way of fixing the price of other commodities: and, in what little has been done, the probity of the intention has, I believe, in general, been rather more unquestionable than the rectitude of the principle, or the felicity of the result. *Putting money out at interest, is exchanging present money for future:* but why a policy, which, as applied to exchanges in general, would be generally deemed absurd and mischievous, should be deemed necessary in the instance of this particular kind of exchange, mankind are as yet to learn. For him who takes as much as he can get for the use of any other sort of thing, a house for instance, there is no particular appellation, nor any mark of disrepute: nobody is ashamed of doing so, nor is it usual so much as to profess to do otherwise. Why a man, who takes as much as he can get, be it six, or seven, or eight, or ten

per cent for the use of a sum of money, should be called usurer, should be loaded with an opprobrious name, any more than if he had bought a house with it, and made a proportionable profit by the house, is more than I can see.

Another thing I would also wish to learn, is, why the legislator should be more anxious to limit the rate of interest one way, than the other? why he should set his face against the owners of that species of property more than of any other? why he should make it his business to prevent their getting *more* than a certain price for the use of it, rather than to prevent their getting *less*? why, in short, he should not take means for making it penal to offer less, for example, than five per cent, as well as to accept more? Let any one that can, find an answer to these questions; it is more than I can do: I except always the distant and imperceptible advantage, of sinking the price of goods of all kinds; and in that remote way, multiplying the future enjoyment of individuals. But this was a consideration by far too distant and refined, to have been the original ground for confining the limitation to this side.

LETTER III.

Reasons for Restraint—Prevention of Prodigality.

Having done with sounds, I come gladly to propositions; which, as far as they are true in point of fact, may deserve the name of reasons. And first, as to the efficacy of such restrictive laws with regard to the *Prevention of Prodigality*.

That prodigality is a bad thing, and that the prevention of it is a proper object for the legislator to propose to himself, so long as he confines himself to, what I look upon as, proper measures, I have no objection to allow, at least for the purpose of argument; though, were this the principal question, I should look upon it as incumbent on me to place in a fair light the reasons there may

be for doubting, how far, with regard to a person arrived at the age of discretion, third persons may be competent judges, which of two pains may be of greater force and value to him, the present pain of restraining his present desires, or the future contingent pain he may be exposed to suffer from the want to which the expense of gratifying these desires may hereafter have reduced him. To prevent our doing mischief to one another, it is but too necessary to put bridles into all our mouths: it is necessary to the tranquillity and very being of society: but that the tacking of leading-strings upon the backs of grown persons, in order to prevent their doing themselves mischief, is not necessary either to the being or tranquillity of society, however conducive to its well-being, I think cannot be disputed. Such paternal, or if you please, maternal care, may be a good work, but it certainly is but a work of supererogation.

For my own part, I must confess, that so long as such methods only are employed as to me appear proper ones, and such there are, I should not feel myself disinclined to see some measures taken for the restraining of prodigality: but this I cannot look upon as being of the number. My reasons I will now endeavor to lay before you.

In the outset, I assume, that it is neither natural nor usual for prodigals, as such, to betake themselves to this method—I mean, that of giving a rate of interest above the ordinary one, to supply their wants.

In the first place, no man, I hope you will allow, prodigal or not prodigal, ever thinks of borrowing money to spend, so long as he has ready money of his own, or effects which he can turn into ready money without loss. And this deduction strikes off what, I suppose, you will look upon as the greatest proportion of the persons subject, at any given time, to the imputation of prodigality.

In the next place, no man, in this country at least, has occasion, nor is at all likely, to take up money at an extraordinary rate of interest, who has security to give, equal to that upon which money is commonly to be had at the highest ordinary rate. When money is to be lent at five per cent, what should possess a man, who has any

thing to offer that can be called a security, to give, for example, six per cent, is more than I can conceive.

You may say, perhaps, that a man who wishes to lend his money out upon security, wishes to have his interest punctually, and that without the expense, and hazard, and trouble, and odium of going to law; and that, on this account, it is better to have a sober man to deal with, than a prodigal. So far I allow yon; but were you to add, that on this account it would be necessary for a prodigal to offer more than another man, there I should disagree with you. In the first place, it is not so easy a thing, nor, I take it, a common thing, for the lender upon security to be able to judge, or even to form any attempt to judge, whether the conduct of one who offers to borrow his money is, or is not of such a cast, as to bring him under this description. The question, prodigal or not prodigal, depends upon two pieces of information; neither of which, in general, is very easy to come at: on the one hand, the amount of his means and reasonable expectations; on the other hand, the amount of his expenditure. The goodness or badness of the security is a question of a very different nature. Upon this head, every man has a known and ready means of obtaining that sort of information, which is the most satisfactory the nature of things affords, by going to his lawyer. It is, accordingly, I take it, on their lawyer's opinion, that lenders in general found their determination in these cases, and not upon any calculations they may have formed, concerning the receipt and expenditure of the borrower. But even supposing a man's disposition to prodigality to be ever so well known, I take it there are always enough to be found, to whom such a disposition would be rather an inducement than an objection, so long as they were satisfied with the security. Everybody knows the advantage to be made in case of mortgage, by foreclosing or forcing a sale: and that this advantage is not uncommonly looked out for, will, I believe, hardly be doubted by any one.

In short, so long as a prodigal has any thing to pledge, or to dispose of, whether in possession, or even in reversion, whether of a certain or even of a contingent nature, I see not, how he can receive the smallest benefit, from any laws that are, or can be made to fix the

rate of interest. For, suppose the law to be efficacious as far as it goes, and that the prodigal can find none of those monsters called usurers to deal with him, does he lie quiet? No such thing: he goes on and gets the money he wants, by selling his property, instead of borrowing. He goes on, I say: for if he has prudence enough to stop him anywhere, he is not that sort of man, whom it can be worth while for the law to attempt stopping by such means. It is plain enough then, I conclude, that to a prodigal thus circumstanced, the law cannot be of any service; on the contrary, it may, and in many cases must, be of disservice to him, by denying him the option of a resource which, how disadvantageous soever, could not well have proved more so, but would naturally have proved less so, than those which it leaves still open to him. But of this hereafter.

I now come to the only remaining class of prodigals, viz., those who have nothing that can be called a security to offer. These, certainly, are not more likely to get money upon an extraordinary rate of interest, than an ordinary one. Persons who either feel, or find reasons for pretending to feel, a friendship for the borrower, cannot take of him more than the ordinary rate of interest: persons, who have no such motives for lending him, will not lend him at all. If they know him for what he is, that will prevent them of course; and even though they should know nothing of him by any other circumstance, the very circumstance of his not being able to find a friend to trust him at the highest ordinary rate, will be sufficient reason to a stranger for looking upon him as a man, who, in the judgment of his friends, is not likely to pay.

The way that prodigals run into debt, after they have spent their substance, is, I take it, by borrowing of their friends and acquaintance, at ordinary interest, or more commonly at no interest, small sums, such as each man may be content to lose, or be ashamed to ask real security for; and as prodigals have generally an extensive acquaintance (extensive acquaintance being at once the cause and effect of prodigality) the sum total of the money a man may thus find means to squander, may be considerable, though each sum borrowed may, relatively to the circumstances of the lender, have been inconsiderable.

This I believe to be the race which prodigals, who have spent their all, run at present, under the actual system of restraining laws: and this, and no other, I take it, would be the race they would run, were these laws out of the way.

Another consideration there is, I think, which will complete your conviction, if it was not complete before, of the inefficacy of these laws, as to the putting any sort of restraint upon prodigality. This is, that there is another set of people from whom prodigals get what they want, and always will get it, so long as credit lasts, in spite of all laws against high interest; and should they find it necessary, at an expense more than equal to any excess of interest they might otherwise have to give. I mean the tradesmen who deal in the goods they want. Everybody knows it is much easier to get goods than money. People trust goods upon much slenderer security than they do money: it is very natural they should do so: ordinary profit upon the whole capital employed in a man's trade, even after the expense of warehouse rent, journeymen's wages, and other such general charges, are taken into the account, and set against it, *is at least equal to double interest;* say ten per cent. Ordinary profit upon any particular parcel of goods must therefore be a great deal more, say at least triple interest, fifteen per cent. In the way of trading, then, a man can afford to be at least three times as adventurous, as he can, in the way of lending, and with equal prudence. So long, then, as a man is looked upon as one who will pay, he can much easier get the goods he wants, than he could the money to buy them with, though he were content to give for it twice, or even thrice the ordinary rate of interest.

Supposing anybody, for the sake of extraordinary gain, to be willing to run the risk of supplying him, although he did not look upon his personal security to be equal to that of another man, and for the sake of the extraordinary profit to run the extraordinary risk. In the trader, in short in every sort of trader whom he was accustomed to deal with in his solvent days, he sees a person who may accept of any rate of profit, without the smallest danger from any laws that are or can be made against usury. How idle, then, to think of stopping a man from making six, or seven, or eight per cent interest, when, if

he chooses to run a risk proportionable, he may in this way make thirty or forty per cent, or any rate you please! And as to the prodigal, if he cannot get what he wants upon these terms, what chance is there of his getting it upon any terms, supposing the laws against usury to be abolished? This then is another way, in which instead of serving, it injures him, by narrowing his option, and driving him from a market which might have proved less disadvantageous, to a more disadvantageous one.

As far as prodigality, then, is concerned, I must confess, I cannot see the use of stopping the current of expenditure in this way at the fosset, when there are so many unpreventable ways of letting it run out at the bung-hole.

Whether any harm is done to society, upon the whole, by letting so much money drop at once out of the pockets of the prodigal, who would have gone on wasting it, into the till of the frugal tradesman, who will lay it up, is not worth the enquiry for the present purpose: what is plain is, that, so far as the saving the prodigal from paying at any extraordinary rate for what he gets to spend, is the object of the law, that object is not at all promoted, by fixing the rate of interest upon money borrowed. On the contrary, if the law has any effect, it runs counter to that object: since, were he to borrow, it would only be, in as far as he could borrow at a rate inferior to that at which otherwise he would be obliged to buy. Preventing his borrowing at an extra rate, may have the effect of increasing his distress, but cannot have the effect of lessening it: allowing his borrowing at such a rate, might have the effect of lessening his distress, but could not have the effect of increasing it.

To put a stop to prodigality, if indeed it be worth while, I know but of one effectual course that can be taken, in addition to the incomplete and insufficient courses at present practicable, and that is, to put the convicted prodigal under an *interdict*, as was practised formerly among the Romans, and other nations who have taken the Roman law for the groundwork of their own. But to discuss the expediency, or sketch out the details, of such an institution, belongs not to the present purpose.

LETTER IV.

Reasons for Restraint—Protection of Indigence and Ignorance.

Besides prodigals, there are three other classes of persons, and but three, for whose security I can conceive these restrictive laws to have been designed—I mean the indigent, the rashly enterprising, and the simple: those whose pecuniary necessities may dispose them to give an interest above the ordinary rate, rather than not have it, and those who, from rashness, may be disposed to venture upon giving such a rate, or from carelessness, combined with ignorance, may be disposed to acquiesce in it.

In speaking of these three different classes of persons, I must beg leave to consider one of them at a time: and accordingly in speaking of the indigent, I must consider indigence, in the first place as untinctured with simplicity. On this occasion I may suppose, and ought to suppose, no particular defect in a man's judgment, or his temper, that should mislead him, more than the ordinary run of men. He knows what is his interest as well as they do, and is as well disposed and able to pursue it as they are.

I have already intimated, what I think is undeniable, that there are no one or two or other limited number of rates of interest, that can be equally suited to the unlimited number of situations, in respect to the degree of *exigency*, in which a man is liable to find himself: insomuch, that to the situation of a man, who, by the use of money can make, for example, eleven per cent, six per cent is as well adapted, as five per cent is to the situation of him who can make but ten; to that of him who can make twelve per cent, seven, and so on. So, in the case of his wanting it to save himself from a loss (which is what is most likely to be in view under the name of *exigency*), if that loss would amount to eleven per cent, six per cent is as well adapted to his situation, as five per cent would be to the situation of him, who had but a loss amounting to ten per

cent to save himself from by the like means. And in any case, though in proportion to the amount of the loss, the rate of interest were even so great, as the clear saving should not amount to more than one per cent or any fraction per cent, yet so long as it amounted to anything, he would be just so much the better for borrowing, even on such comparatively disadvantageous terms. If, instead of gain, we put any other kind of benefit or advantage—if, instead of loss, we put any other kind of mischief or inconvenience, of equal value, the result will be the same.

A man is in one of these situations, suppose, in which it would be for his advantage to borrow. But his circumstances are such, that it would not be worth anybody's while to lend him, at the highest rate which it is proposed the law should allow; in short, he cannot get it at that rate. If he thought he *could* get it at that rate, most surely he would not give a higher; he may be trusted for that: for by the supposition, he has nothing defective in his understanding. But the fact is, he cannot get it at that lower rate. At a higher rate, however, he could get it: and at that rate, though higher, it would be worth his while to get it: so he judges, who has nothing to hinder him from judging right; who has every motive and every means for forming a right judgment; who has every motive and every means for informing himself of the circumstances, upon which rectitude of judgment, in the case in question, depends. The legislator, who knows nothing, nor can know anything, of any one of all these circumstances, who knows nothing at all about the matter, comes and says to him—"It signifies nothing; you shall not have the money, for it would be a mischief to you to borrow it upon such terms."—And this out of prudence and loving-kindness! There may be worse cruelty; but can there be greater folly?

The folly of those who persist, as is supposed, without reason, in not taking advice, has been much expatiated upon. But the folly of those who persist, without reason, in forcing their advice upon others, has been but little dwelt upon, though it is perhaps, the more frequent and the more flagrant of the two. It is not often that one man is a better judge for another, than that other is for

himself, even in cases where the adviser will take the trouble to make himself master of as many of the materials for judging, as are within the reach of the person to be advised. But the legislator is not, cannot be, in the possession of any one of these materials.—What private, can be equal to such public, folly?

LETTER V.

Reasons for Restraint—Protection of Simplicity.

I come, lastly, to the case of the simple. Here, in the first place, I think I am by this time entitled to observe, that no simplicity, short of absolute idiotism, can cause the individual to make a more groundless judgment, than the legislator, who, in the circumstances above stated, should pretend to confine him to any given rate of interest, would have made for him.

Another consideration, equally conclusive, is, that were the legislator's judgment ever so much superior to the individual's, how weak soever that may be, the exertion of it, on this occasion, can never be any otherwise than useless, so long as there are so many similar occasions, as there ever must be, where the simplicity of the individual is equally liable to make him a sufferer, and on which the legislator cannot interpose with effect, nor has ever so much as thought of interposing.

Buying goods with money, or upon credit, is the business of every day: borrowing money is the business only of some particular exigency, which, in comparison, can occur but seldom. Regulating the prices of goods in general would be an endless task; and no legislator (in modern times) has ever been weak enough to think of directly attempting it. And supposing he were to regulate the prices, what would that signify for the protection of simplicity, unless he were to regulate also the quantum of what each man should buy? Such quantum is indeed regulated, or rather, means are taken to

prevent buying altogether; but in what cases? in those only where the weakness is adjudged to have arrived at such a pitch, as to render a man utterly unqualified for the management of his affairs: in short, when it has arrived at the length of idiocy.

But in what degree soever a man's weakness may expose him to imposition, he stands much more exposed to it in the way of buying goods, than in the way of borrowing money. To be informed, beforehand, of the ordinary prices of all sorts of things a man may have occasion to buy, may be a task of considerable variety and extent. To be informed of the ordinary rate of interest, is to be informed of one single fact, too interesting not to have attracted attention, and too simple to have escaped the memory. A few per cent enhancement upon the price of goods, is a matter that may easily enough pass unheeded; but a single per cent beyond the ordinary interest of money, is a stride more conspicuous and startling, than many per cent upon the price of any kind of goods.

Even in regard to subjects, which by their importance would, if any, justify a regulation in their price, such as for instance land, I question whether there ever was an instance where, without some such ground as, on the one side fraud, or suppression of facts necessary to form a judgment of the value, or at least ignorance of such facts, on the other, a bargain was rescinded, merely because a man had sold too cheap, or bought too dear. Were I to take a fancy to give a hundred years' purchase instead of thirty, for a piece of land, rather than not have it, I do not think there is any court anywhere that would interpose to hinder me, much less to punish the seller with the loss of three times the purchase-money, as in the case of usury. Yet when I had got my piece of land, and paid my money, repentance, were the law ever so well disposed to assist me, might be unavailing: for the seller might have spent the money, or gone off with it. But in the case of borrowing money, it is the borrower always who, according to the indefinite, or short term for which money is lent, is on the safe side: any imprudence he may have committed, with regard to the rate of interest, may be corrected at any time: if I find I have given too high an interest to one man, I

have no more to do than to borrow of another at a lower rate, and pay off the first: if I cannot find anybody to lend me at a lower, there cannot be a more certain proof that the first was not in reality too high. But of this hereafter.

LETTER VI.

MISCHIEFS OF THE ANTI-USURY LAWS.

In the preceding letters, I have examined all the modes I can think of, in which the restraints, imposed by the laws against usury, can have been fancied to be of service.

I hope it appears by this time, that there are no ways in which those laws can do any good. But there are several, in which they cannot but do mischief.

The first I shall mention, is that of precluding so many people, altogether, from the getting the money they stand in need of, to answer their respective exigencies. Think what a distress it would produce, were the liberty of borrowing denied to everybody; denied to those who have such security to offer, as renders the rate of interest they have to offer a sufficient inducement, for a man who has money, to trust them with it. Just that same sort of distress is produced, by denying that liberty to so many people whose security, though if they were permitted to add something to that rate it would be sufficient, is rendered insufficient by their being denied that liberty. Why the misfortune of not being possessed of that arbitrarily exacted degree of security, should be made a ground for subjecting a man to a hardship, which is not imposed on those who are free from that misfortune, is more than I can see. To discriminate the former class from the latter, I can see but this one circumstance, viz.: that their necessity is greater. This it is by the very supposition: for were it not, they could not be what they are supposed to be, willing to give more to be relieved from it. In this point of view, then, the sole tendency of the law is, to heap distress upon distress.

A second mischief is that of rendering the terms so much the worse, to a multitude of those whose circumstances exempt them from being precluded altogether from getting the money they have occasion for. In this case, the mischief, though necessarily less intense than in the other, is much more palpable and conspicuous. Those who cannot borrow, may get what they want, so long as they have anything to sell. But while out of loving-kindness, or whatsoever other motive, the law precludes a man from *borrowing*, upon terms which it deems too disadvantageous, it does not preclude him from *selling*, upon any terms, however disadvantageous. Everybody knows, that forced sales are attended with loss: and to this loss, what would be deemed a most extravagant interest, bears in general no proportion. When a man's movables are taken in execution, they are, I believe, pretty well sold, if, after all expenses are paid, the produce amounts to two-thirds of what it would cost to replace them. In this way the providence and loving-kindness of the law costs him thirty-three per cent, and no more, supposing, what is seldom the case, that no more of the effects are taken than what is barely necessary to make up the money due. If, in her negligence and weakness, she were to suffer him to offer eleven per cent per annum, for forbearance, it would be three years before he paid what he is charged with, in the first instance, by her wisdom.

Such being the kindness done by the law to the owner of movables, let us see how it fares with him who has an interest in immovables. Before the late war,* thirty years' purchase for land might be reckoned, I think it is pretty well agreed, a medium price. During the distress produced by the war, lands which it was necessary should be sold, were sold at twenty, eighteen, nay, I believe, in some instances, even so low as fifteen years' purchase. If I do not mis-recollect, I remember instances of lands put up to public auction, for which nobody bid so high as fifteen. In many instances, villas, which had been bought before the war, or at the beginning of it, and, in the interval had been improved rather than impaired, sold for less than

* The war here referred to was the war with France and the revolt of the American colonies.

half, or even the quarter, of what they had been bought for. I dare not here for my part pretend to be exact: but twenty years' purchase, instead of thirty, I may be allowed to take, at least for illustration. An estate then of £100 a year, clear of taxes, was devised to a man, incumbered, let us suppose, with a debt of £1,500, on interest till the money should be paid. Five per cent interest, the utmost which could be accepted, from the owner, did not answer the incumbrancer's purpose; he chose to have the money. But six per cent perhaps, would have answered his purpose; if not, most certainly it would have answered the purpose of somebody else; for multitudes there all along were, whose purposes were answered by five per cent. The war lasted, I think, seven years; the depreciation of the value of land did not take place immediately; but as, on the other hand, neither did it immediately recover its former price upon the peace, if indeed it has even yet recovered it, we may put seven years for the time, during which it would be more advantageous to pay this extraordinary rate of interest than sell the land, and during which, accordingly, this extraordinary rate of interest would have had to run. One per cent, for seven years, is not quite of equal worth to seven per cent the first year: say, however, that it is. The estate, which before the war was worth thirty years' purchase, that is £3,000, and which the devisor had given to the devisee for that value, being put up to sale, sold for but twenty years' purchase, £2,000. At the end of that period it would have sold for its original value, £3,000. Compare, then, the situation of the devisee at the seven years' end, under the law, with what it would have been, without the law. In the former case, the land selling for twenty years' purchase, *i. e.* £2,000, what he would have after paying the £1,500, is £500; which, with the interest of that sum, at five per cent for seven years, viz. £175, makes, at the end of that seven years, £675. In the other case, paying six per cent on the £1,500, that is £90 a year, and receiving all that time the rent of the land, viz. £100, he would have had, at the seven years' end, the amount of the remaining £10 during that period, that is £70 in addition to his £1,000; £675 substracted from £1,070, leaves £395. This £395 then, is what he loses out of £1,070, almost 37 per cent of his capital, by the loving-

kindness of the law. Make the calculations, and you will find, that, by preventing him from borrowing the money at six per cent interest, it makes him nearly as much a sufferer as if he had borrowed it at ten.

What I have said hitherto, is confined to the case of those who have present value to give for the money they stand in need of. If they have no such value, then, if they succeed in purchasing assistance upon any terms, it must be in breach of the law; their lenders exposing themselves to its vengeance: for I speak not here of the accidental case, of its being so constructed as to be liable to evasion. But, even in this case, the mischievous influence of the law still pursues them; aggravating the very mischief it pretends to remedy. Though it be inefficacious in the way in which the legislator wishes to see it efficacious, it is efficacious in the way opposite to that in which he would wish to see it so. The effect of it is, to raise the rate of interest, higher than it would be otherwise, and that in two ways. In the first place, a man must, in common prudence, as Adam Smith observes, make a point of being indemnified, not only for whatsoever extraordinary risk it is that he runs independently of the law, but for the very risk occasioned by the law; he must be insured, as it were, against the law. This cause would operate, were there even as many persons ready to lend upon the illegal rate, as upon the legal. But this is not the case: a great number of persons are, of course, driven out of this competition, by the danger of the business; and another great number, by the disrepute which, under cover of these prohibitory laws or otherwise, has fastened itself upon the name of usurer. So many persons, therefore, being driven out of the trade, it happens in this branch, as it must necessarily in every other, that those who remain have the less to withhold them from advancing their terms; and without confederating (for it must be allowed that confederacy in such a case is plainly impossible), each one will find it easier to push his advantage up to any given degree of exorbitancy, than he would, if there were a greater number of persons of the same stamp to refer to.

As to the case, where the law is so worded as to be liable to be evaded, in this case it is partly inefficacious and nugatory, and partly mischievous. It is nugatory as to all such whose confidence of its

being so is perfect: it is mischievous, as before, in regard to all such who fail of possessing that perfect confidence. If the borrower can find nobody at all who has confidence enough to take advantage of the flaw, he stands precluded from all assistance, as before: and, though he should, yet the lender's terms must necessarily run the higher, in proportion to what his confidence wants of being perfect. It is not likely that it should be perfect: it is still less likely that he should acknowledge it so to be: it is not likely, at least as matters stand, that the worst-penned law made for this purpose should be altogether destitute of effect: and while it has any, that effect, we see, must be in one way or other mischievous.

The last article I have to mention in the account of mischief, is, the corruptive influence, exercised by these laws, on the morals of the people; by the pains they take, and cannot but take, to give birth to treachery and ingratitude. To purchase a possibility of being enforced, the law neither has found, nor, what is very material, must it ever hope to find, in this case, any other expedient, than that of hiring a man to break his engagement, and to crush the hand that has been reached out to help him. In the case of informers in general, there has been no troth plighted, nor benefit received. In the case of real criminals invited by rewards to inform against accomplices, it is by such *breach* of faith that society is held together, as in other cases by the *observance* of it. In the case of real crimes, in proportion as their mischievousness is apparent, what cannot but be manifest, even to the criminal, is, that it is by the adherence to his engagement that he would do an injury to society, and, that by the breach of such engagement, instead of doing mischief, he is doing good. In the case of usury, this is what no man can know, and what one can scarcely think it possible for any man, who, in the character of the borrower, has been concerned in such a transaction, to imagine. He knew, that, even in his own judgment, the engagement was a beneficial one to himself, or he would not have entered into it: and nobody else but the lender is affected by it.

LETTER VII.

GROUNDS OF THE PREJUDICES AGAINST USURY.

It is one thing, to find reasons why it is *fit* a law *should* have been made: it is another, to find the reasons why it *was* made: in other words, it is one thing to justify a law: it is another thing to account for its existence. In the present instance, the former task, if the observations I have been troubling you with are just, is an impossible one. The other, though not necessary for conviction, may contribute something perhaps in the way of satisfaction. To trace an error to its fountain head, says Lord Coke, is to refute it; and many men there are, who, till they have received this satisfaction, be the error what it may, cannot prevail upon themselves to part with it. "If our ancestors have been all along under a mistake, how came they to have fallen into it?" is a question that naturally presents itself upon such occasions. The case is, that in matters of law more especially, such is the dominion of authority over our minds, and such the prejudice it creates in favor of whatever institution it has taken under its wing, that, after all manner of reasons that can be thought of, in favor of the institution, have been shown to be insufficient, we still cannot forbear looking to some unassignable and latent reason for its efficient cause. But if, instead of any such reason, we can find a cause for it in some notion, of the erroneousness of which we are already satisfied, then at last we are content to give it up without further struggle; and then, and not till then, our satisfaction is complete.

In the conceptions of the more considerable part of those through whom our religion has been handed down to us, virtue, or rather godliness, which was an improved substitute for virtue, consisted in self-denial: not in self-denial for the sake of society, but of self-denial for its own sake. One pretty general rule served for most occasions: not to do what you had a mind to do; or in other words, not to do what would be for your advantage. By this, of course, was meant temporal advantage: to which spiritual advantage was understood

to be in constant and diametrical opposition. For the proof of a resolution on the part of a being of perfect power and benevolence, to make his few favorites happy in a state in which they *were to be*, was his determined pleasure, that they should keep themselves as much strangers to happiness as possible, in a state in which they *were*. Now to get money is what most men have a mind to do: because he who has money, gets, as far as it goes, most other things that he has a mind for. Of course, nobody was to get money: indeed, why should he, when he was not so much as to keep what he had got already? To lend money at interest, is to get money, or at least to try to get it: of course, it was a bad thing to lend money upon such terms. The better the terms, the worse it was to lend upon them: but it was bad to lend upon any terms, by which any thing could be got. What made it much the worse was, that it was acting like a Jew: for, though all Christians at first were Jews, and continued to do as Jews did, after they had become Christians, yet, in process of time, it came to be discovered, that the distance between the mother and the daughter Church, could not be too wide.

By degrees, as old conceits gave place to new, nature so far prevailed, that the objections to getting money in general, were pretty well overruled: but still this Jewish way of getting it, was too odious to be endured. Christians were too intent upon plaguing Jews, to listen to the suggestion of doing as Jews did, even though money were to be got by it. Indeed the easier method, and a method pretty much in vogue, was, to let the Jews get the money any how they could, and then squeeze it out of them as it was wanted.

In process of time, as questions of all sorts came under discussion, and this, not the least interesting among the rest, the anti-Jewish side of it found no unopportune support in a passage of Aristotle, that celebrated heathen, who, in all matters wherein heathenism did not destroy his competence, had established a despotic empire over the Christian world. As fate would have it, that great philosopher, with all his industry, and all his penetration, notwithstanding the great number of pieces of money that had passed through his hands (more perhaps than ever passed through the hands of a philosopher before

or since), and notwithstanding the uncommon pains he had bestowed on the subject of generation, had never been able to discover, in any one piece of money, any organs for generating any other such piece. Emboldened by so strong a body of negative proof, he ventured at last to usher into the world the result of his observations, in the form of an universal proposition, that *all money is in its nature barren.* You, my friend, to whose cast of mind sound reason is much more congenial than ancient philosophy, you have, I dare to say, gone before me in remarking, that the practical inference from this shrewd observation, if it afforded any, should have been, that it would be to no purpose for man to try to get five per cent out of money—not that, if he could contrive to get so much, there would be any harm in it. But the sages of those days did not view the matter in that light.

A consideration that did not happen to present itself to that great philosopher, but which, had it happened to present itself, might not have been altogether unworthy of his notice, is, that though a *daric* would not beget another daric, any more than it would a ram, or an ewe, yet for a daric which a man borrowed, he might get a ram and a couple of ewes, and that the ewes, were the ram left with them a certain time, would probably not be barren. That then, at the end of the year, he would find himself master of his three sheep, together with two, if not three, lambs; and that, if he sold his sheep again to pay back his daric, and gave one of his lambs for the use of it in the mean time, he would be two lambs, or at least one lamb, richer, than if he had made no such bargain.

These theological and philosophical conceits, the offspring of the day, were not ill seconded by principles of a more permanent complexion.

The business of a money-lender, though only among Christians, and in Christian times, a proscribed profession, has nowhere, nor at any time, been a popular one. *Those who have the resolution to sacrifice the present to the future, are natural objects of envy to those who have sacrificed the future to the present.* The children who have eat their cake, are the natural enemies of the children who have

theirs. While the money is hoped for, and for a short time after it has been received, he who lends it is a friend and benefactor: by the time the money is spent, and the evil hour of reckoning is come, the benefactor is found to have changed his nature, and to have put on the tyrant and the oppressor. It is an oppression for a man to reclaim his own money: it is none to keep it from him. Among the inconsiderate, that is, among the great mass of mankind, selfish affections conspire with the social in treasuring up all favor for the man of dissipation, and in refusing justice to the man of thrift who has supplied him. In some shape or other, that favor attends the chosen object of it, through every stage of his career. But, in no stage of *his* career, can the man of thrift come in for any share of it. It is the general interest of those with whom a man lives, that his expense should be at least as great as his circumstances will bear: because there are few expenses which a man can launch into, but what the benefit of them is shared, in some proportion or other, by those with whom he lives. In that circle originates a standing law, forbidding every man, on pain of infamy, to confine his expenses within what is adjudged to be the measure of his means, saving always the power of exceeding that limit, as much as he thinks proper: and the means assigned him by that law may be ever so much beyond his real means, but are sure never to fall short of them. So close is the combination thus formed between the idea of merit and the idea of expenditure, that a disposition to spend finds favor in the eyes even of those who know that a man's circumstances do not entitle him to the means: and an upstart, whose chief recommendation is this disposition, shall find himself to have purchased a permanent fund of respect, to the prejudice of the very persons at whose expense he has been gratifying his appetites and his pride. The lustre, which the display of borrowed wealth has diffused over his character, awes men, during the season of his prosperity, into a submission to his insolence: and when the hand of adversity has overtaken him at last, the recollection of the height from which he is fallen, throws the veil of compassion over his injustice.

The condition of the man of thrift, is the reverse. His lasting

opulence procures him a share, at least, of the same envy that attends the prodigal's transient display: but the use he makes of it, procures him no part of the favor which attends the prodigal. In the satisfactions he derives from that use, the pleasure of possession, and the idea of enjoying at some distant period, which may never arrive, nobody comes in for any share. In the midst of his opulence, he is regarded as a kind of insolvent, who refuses to honor the bills which their rapacity would draw upon him, and who is by so much the more criminal than other insolvents, as not having the plea of inability for an excuse.

Could there be any doubt of the disfavor which attends the cause of the money-lender, in his competition with the borrower, and of the disposition of the public judgment to sacrifice the interest of the former to that of the latter, the stage would afford a compendious, but a pretty conclusive proof of it. It is the business of the dramatist to study, and to conform to, the humors and passions of those, on the pleasing of whom he depends for his success. It is the course which reflection must suggest to every man, and which a man would naturally fall into, though he were not to think about it. He may, and very frequently does, make magnificent pretences, of giving the law to them: but woe be to him that attempts to give them any other law than what they are disposed already to receive. If he would attempt to lead them one inch, it must be with great caution, and not without suffering himself to be led by them at least a dozen. Now, I question, whether, among all the instances in which a borrower and a lender of money have been brought together upon the stage, from the days of Thespis to the present, there ever was one, in which the former was not recommended to favor, in some shape or other, either to admiration, or to love, or to pity, or to all three; and the other, the man of thrift, consigned to infamy.

Hence it is, that, in reviewing and adjusting the interests of these apparently rival parties, the advantage made by the borrower is so apt to slip out of sight, and that made by the lender to appear in so exaggerated a point of view. Hence it is, that though prejudice

is so far softened as to acquiesce in the lender's making some advantage, lest the borrower should lose altogether the benefit of his assistance, yet still the borrower is to have all the favor, and the lender's advantage is forever to be clipped, and pared down, as low as it will bear. First, it was to be confined to ten per cent, then to eight, then to six, then to five, and now lately there was a report of its being to be brought down to four; with constant liberty to sink it as much lower as it would. The burden of these restraints, of course, has been intended exclusively for the lender: in reality, as I think you have seen, it presses much more heavily upon the borrower; I mean him who either becomes or in vain wishes to become so. But the presents directed by prejudice, are not always delivered according to their address.

"DE USURIS RESPONSUM."

BY

JOHN CALVIN.

John C. died 1564

THE following is the substance of a letter, written by John Calvin, the "Theologian," in 1579, in answer to a request by a friend for his opinion on the authority or teaching of Scripture in respect to the taking of interest, or usury. The letter, although often referred to in the discussion of usury laws, is little known and of no great importance; but it is interesting because it was one of the first efforts of any great leader of public opinion to oppose the once almost universally accepted doctrine, that the Bible unqualifiedly condemns or forbids the loaning of money for interest; and more especially, because it also

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correctly: This is from Calvin's letter to Claude de Sachins - 1545.; see Hudkin, 204-7; B. Nelson on Usury, p 75f.

for the first time critically examined and exploded the opinion of Aristotle (also then generally regarded as indisputable) that inasmuch as money is only a medium of exchange, and cannot produce its like, or as he termed it "*is barren*," therefore the taking of interest for the loan of money "*was a gain against nature*," and not to be defended.

"I have not yet essayed," writes Calvin, "what could fitly be answered to the question put to me: but I have learned by the example of others with how great danger this matter is attended. For if all usury is condemned, tighter fetters are imposed on the conscience than the Lord himself would wish. Or if you yield in the least, with that pretext very many will at once seize upon unlicensed freedom, which can then be restrained by no moderation or restriction. Were I writing to you alone, I would fear this the less; for I know your good sense and moderation: but as you ask counsel in the name of another, I fear, lest he may allow himself far more than I would wish by seizing upon some word; yet confident that you will look closely into his character, and from the matter which is here treated judge what is expedient, and to what extent, I will open my thoughts to you."

"And first I am certain that by no testimony of Scripture is usury wholly condemned. For the sense of that saying of Christ, which is usually regarded as clear and evident, 'Lend, hoping for nothing again' (Luke vi. 35), has up to this time been perverted; the same as in another passage, when speaking of splendid feasts and that desire of the rich to be received in turn, he commands them rather to summon to these feasts, the blind, the lame, and other needy men, who lie at the cross-roads, and have not the power to make a like return. Christ, wishing to restrain man's abuse of lending, commands them to lend to those from whom there is no hope of receiving or regaining anything; and his words ought to be interpreted, that while he would command loans to the poor without expectation of repayment or the re-

ceipt of interest, he did not mean at the same time to forbid loans being made to the rich with interest; any more than in the injunction to invite the poor to our feasts, he did not imply that the mutual invitation of friends to feasts is in consequence to be prohibited. Again the law of Moses (Deut. xxiii. 19), was political, and should not influence us beyond what justice and philanthropy will bear. It could be wished that all usury, and the name itself, were first banished from the earth. But as this cannot be accomplished, it should be seen, what can be done for the public good. Certain passages of Scripture remain, in the Prophets and Psalms, in which the Holy Spirit inveighs against usury. Thus, a city is described as wicked because usury was practiced in the forum and streets; but as the Hebrew word means *frauds* in general, this cannot be interpreted so strictly. But if we concede that the prophet there mentions usury by name, it is not a matter of wonder that among the great evils which existed, he should attack usury. For wherever gains are farmed out, there are generally added, as inseparable concomitants, cruelty, and numberless other frauds and deceits. On the other hand it is said in praise of a pious and holy man, "that he putteth not out his money to usury" (Psa. xv. 5). Indeed it is very rare for the same man to be honest and yet be a usurer. Ezekiel goes even further (Eze. xxii. 12). For, enumerating the crimes which inflamed the wrath of the Lord against the Jews he uses two words: one of which means *usury*, and is derived from a root meaning to *consume;* the other word means *increase* or *addition;* doubtless because one devoted to his private gain, takes or rather extorts it from the loss of his neighbor. It is clear that the prophets spoke even more harshly of usury, because it was forbidden by name among the Jews: and when therefore it was practiced against the express command of God, it merited even heavier censure. But when it is said, that, as the cause of our union (*i. e.*, situation) is the same, the same prohibition of usury should be retained, I answer, that there is some difference in what pertains to the civil state (then and now?). Because the surroundings of the place in which the Lord placed the Jews, as well as other circumstances, tended to this, that it might be easy for them to deal among themselves without usury,

while our union (or situation) to-day is a very different one in many respects. Therefore usury is not wholly forbidden among us, except it be repugnant both to justice and to charity."*

"Money does not, it is said, beget money? What does the sea beget? What does a house, from the letting of which I receive a rent? Is money really born from roofs and walls? But on the other hand both the earth produces, and something is brought from the sea which afterwards produces money, and the convenience of a house can be bought or sold for money. If therefore more profit can be derived from trading through the employment of money, than from the produce of a farm, the purpose of which is subsistance, should one who lets some barren farm to a farmer, receiving in return a price, or part of the produce, be approved, and one who loans money to be used for producing profit, be condemned? and when any one buys a farm with money, does not that money produce other money yearly? And whence is derived the profit of the merchant? You will say from his diligence and industry. Who doubts that idle money is wholly useless? Who asks a loan of me does not intend to keep what he receives idle by him. Therefore the profit does not arise from that money, but from the produce that results from its use, or employment. I therefore conclude that usury

* The point which Calvin here makes, obscurely expressed in the original Latin and its translation, is made clear by the following passage from Roscher, vol. II. pp. 128–129. "There is a strong aversion," says the latter author, "to the taking of interest prevalent among nations in a low civilization. Industrial enterprises of any importance do not as yet exist here at all, and agriculture is most advantageously carried on by means of great parcels of land, but with little capital. The purchase of land is so rare and hampered by legal restrictions to such a degree, that loans for that purpose are almost unheard of. And just as seldom does it happen, by reason of the superabundance of land, that the heir of a landowner borrows capital to effect an adjustment with his co-heirs, and thus enter alone into the possession of the estate. Here, as a rule, only absolute want leads to loaning. If in addition to this, we consider the natural height of the rule of wages in such times, the small number and importance of the capitalist class, the tardy insight of man into the course and nature of economic production, it will not be hard to understand the odium attached in the middle ages of every nation to the so-called interest usury."

must be judged not by a particular passage of Scripture, but simply by the rules of equity. This will be made clearer by an example. Let us imagine a rich man with large possessions in farms and rents, but with little money. Another man, not so rich, nor with such large possessions as the first, has more ready money. The latter being about to buy a farm with his own money is asked for a loan by the wealthier man. He who makes the loan may stipulate for a rent or interest for his money, and further, that the farm shall be mortgaged to him until the principal is repaid, but until it is repaid he will be content with the interest or usury on the loan. Why, then, shall this contract with a mortgage, but only for the profit of the money, be condemned, when a much harsher, it may be, of leasing or renting a farm at a large annual rent, is approved? And what else is it than to treat God like a child, when we judge of objects by mere words, and not from their nature? As if virtue can be distinguished from vice by the form of words."

"It is not my intention to fully examine the matter here. I wished only to show what you should consider more carefully. You should remember this, that the importance of the question lies not in words, but in the thing itself."

SPEECH

OF

HON. RICHARD H. DANA, JR., IN THE HOUSE OF REPRESENTATIVES OF MASSACHUSETTS, FEBRUARY 14, 1867, *ON THE REPEAL OF THE USURY LAWS.*

THE proposition to repeal the usury laws of the State of Massachusetts, came up before the Legislature of that State during the winter of 1867. The proposition had been made many times before, and had always been received with disfavor and defeated; and on its reintroduction in 1867, it was met with the usual array of old time arguments and inherited prejudices in opposition; to which was allied that indolent conservation of all legislative assemblies, which always inclines to adhere to the old and the existing, rather than to take the trouble to examine, adopt and conform to what is new. The bill for repeal would therefore in all probability have speedily shared the fate of all its predecessors, had it not been for the efforts mainly of one man—Hon. Richard H. Dana, Jr., of Boston,—who in a speech before the House of Representatives presented the subject so clearly and popularly, as to awaken interest and compel conviction to a degree sufficient to overcome all opposition, and secure the passage of an act substantially repealing all restriction on the loaning of money in the

State of Massachusetts.* The speech itself, apart from the method and style of presentation, cannot lay claim to much of originality: but it has the very great merit of discussing the question in such a way as to render it attractive and irresistibly persuasive to a large class of persons, to whom the same arguments, as presented by Bentham, would prove dry and uninteresting, and consequently non-effective. As an instrumentality for disseminating sound economic truth, the speech of Mr. Dana is, therefore, worthy a high place in modern economic literature.

This subject, Mr. Speaker, is one of first-class importance. Usury laws had their origin in the beginning of history. They have been dealt with by moralists, theologians, philosophers, statesmen, and

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* The following is a copy of the Bill to repeal the laws against usury, as it passed the Legislature of Massachusetts (See General Statutes of Massachusetts, 1867, chapter 56.)

AN ACT CONCERNING THE RATE OF INTEREST.

SECTION 1. When there is no agreement for a different rate of interest of money, the same shall continue to be at the rate of six dollars upon one hundred dollars for a year, and at the same rate for a greater or less sum, or for a longer or shorter time.

SEC. 2. It shall be lawful to contract to pay or reserve discount at any rate, and to contract for payment and receipt of any rate of interest, *provided, however*, that no greater rate of interest than six per centum per annum shall be recovered in any action, except when the agreement to pay such greater rate of interest is in writing.

SEC. 3. Sections three, four and five, of chapter fifty-three of the General Statutes, and all acts and parts of acts inconsistent herewith, are hereby repealed.

SEC. 4. This act shall not affect any existing contract or action pending or existing right of action, and shall take effect on the first of July, next.

MARCH 6, 1867.

economists,—by church councils, synods, parliaments, royal edicts, and legislatures, from the Law of Moses to the hour of the present debate. They had a noble origin—an origin in kind hearts and religious purposes. They had a common origin with sumptuary laws, and laws regulating the prices of the necessaries of life. One cannot but respect the motives of those who, in ancient times, desired, by strong laws and heavy penalties, to repress luxuriousness of living, and to protect the poor borrower against the rich and potent lender, and the poor consumer of the necessaries of life, against the wealthy producer.

Sumptuary laws are no strangers to this country. They were enforced in the early days of New England; but who would think of calling for them, or of permitting them, now?

How has it been with laws regulating the prices of the necessaries of life?

It seemed to philanthropic men that a poor consumer should not be obliged to pay a great price to the rich producer. All are charged to give to the poor; and the rich producer was not to be allowed to compel the poor consumer to pay a high price for the necessaries of life—for bread.

If we go back, I do not know how many centuries, we shall find philanthropic men urging a system of laws which should compel the producer to sell at moderate rates. Nothing could be more humane in intention, nothing more in accordance with the spirit of Christianity. But when they came to put the system into operation, some difficulties showed themselves. For instance, suppose what I call the natural price of a bushel of wheat, that is, the price which, without legislative interference, would be the ruling rate when the producer and consumer were brought together, was ten shillings. But ten shillings is a high price for a poor consumer to pay. The philanthropic legislature says he shall have it at nine shillings, and the rich producer shall sell it at nine shillings. In those days the laws were enforced—and no law should stand that cannot be enforced. Gentlemen can see that if ten shillings was the proper price, and the producer was compelled to sell at nine, he would not go on

producing wheat, but would turn his capital and industry in another direction. So the consequence would be that the next year the price of wheat would rise, and the poor consumer be in a worse condition.

Something must be done to increase the supply. The first attempt was to compel the agriculturist by penalties to produce and sell. Immediately it became apparent to all that there was no reason why agriculturists should be forced to raise and sell at a losing price, when nobody else was obliged to work in that way.

Then the friends of the poor resorted to a bounty. That seemed reasonable. The natural value is ten shillings, and you wish to sell to the poor at nine; and so you will pay the producer a bounty of one shilling per bushel from the public treasury, that he may sell at nine. Why is not that proper? Two difficulties immediately occur. The first is that you cannot make one law for selling to the rich, and another for selling to the poor. You cannot say to the seller, if a rich man comes to you to buy, charge him ten shillings, and if a poor man comes, sell for nine; for, who is rich, and who is poor? You cannot make a law to benefit the poor alone, so but that the rich will get the benefit of it in the market, as well as the poor.

Another objection to the bounty was, that as it must be raised by taxation, every man was taxed for a shilling a bushel, that every man might buy a shilling a bushel cheaper. Nay, it was worse than that; for it is known that, what with the expenses of collection and the notorious leakages in all revenues, not more than two-thirds of a tax collected reaches its point of destination. So that one shilling and sixpence was levied to save a shilling.

That was the end of the bounty laws on production, and of all like attempts to regulate the price of the necessaries of life. Yet what could be more commendable than an attempt to reduce the price of the necessaries of life? I suppose there is no sane man anywhere now, who would propose to regulate that price by legislation. You would say it is absurd to do so. Mr. Speaker, excuse me, you cannot say it is absurd. It was the faith and belief of centuries; it was the practice of generations; and wise men, men as wise in their day as we in ours, only they had not the same experience as

we—yet as wise, and certainly as benevolent—advocated this system. The arguments in support of the system were as urgent and as sincere as those which have been used against the repeal of the usury laws. It was experience, and the principles deduced from experience alone, which taught men that they could not legislate a cheap market. For there is nothing harder to get out of a man's mind, when he is conscious that he has undertaken a course of conduct from pure and philanthropic motives, than his first convictions. It is easier for a camel to go through the eye of a needle, than for a good man to surrender to the teachings of experience, a darling system for which he knows he has made sacrifices, and with which he has identified all he has and is.

The next system, in the same category, from which we may draw instruction, is the colonial system. It was this: The mother countries—Great Britain, France, and Spain—established laws requiring their respective colonies to deal solely with them. The consequence was that we could not send to Cuba and get a pound of sugar. But that pound of sugar must go to England and pay duties and pass through the merchant's hands there, and then come here and pass through the merchant's hands, so that we had to pay a great sum for a pound of sugar. Massachusetts could not sell or buy except with the mother country. As an equivalent, it was agreed that the mother country would not buy the products of the colony except from the colonies themselves. It was thought that all this circuity of trade and reduplication of business was a creation of wealth. By and by it came to be discovered that both countries were paying a heavy taxation, and both obliged to buy in a dear market and sell in a cheap, that each might save a little out of a forced interchange. This system may seem now absurd; but you know we had to fight our war of the Revolution partly because England had a false notion of political economy as to her colonies. Spain has not given up her system yet. Our longer experience has shown the mistake of the colonial system, but generations, wise and prudent in other things, adhered to it and fought for it.

I will now ask the attention of the House to the question more

immediately before us; and I hope this introduction has not been without its bearing. I trust we shall have gained something by advancing in this manner to the examination of our subject.

Mr. Speaker, I will never vote for a bill, in whatever form it comes, the object of which is, or the tendency of which is, to raise the rate of interest on money, by law. I will never vote for a bill the effect of which is to enable the interest on money to rise, if it can be by law kept down for the benefit of the poor borrower. I admit it has been true in times past—I trust it is no longer true—that the borrowing were the feebler class, and the lending the powerful class. If in those times you would have favored either, it should be the borrower. Perhaps in ancient days such laws may have been of some practical use, as a protection to the poor.

I said the usury law had a noble origin, in religious convictions and in philanthropic motives. Therefore I desire to speak of them with a degree of respect. The Mosaic law has always been supposed to prohibit the receiving of interest for money. All interest was usury. The Mosaic law did not prohibit the taking of usury from strangers, and therefore it was not considered a *malum in se*, but was simply a regulation between the Jews themselves. Gentlemen will see the difference between the state of things then and now. The Jews were a peculiar people, isolated, exclusive, without commerce, without trade, without manufactures,—nothing but the distaff and shuttle under the tent, or two women grinding at a mill. They had no mode of investing capital. Capital consisted in gold, jewels and raiment, which were laid up in chests, and which they used as they needed. For a man to lend money to his neighbor, was very much like a man's now lending a book to his neighbor. Any of us would be ashamed to charge for lending a book to his neighbor. I have been in countries where the capital of the rich was laid up in iron chests, and they could not invest it. That was the state of things among the Jews, who were brethren, one man's sons. For those reasons they would not take money for their little loans,—mere accommodations between one another.

When Christianity became the religion of Europe, this Jewish

system was introduced and insisted upon by the church, in the Judaizing tendencies of those days. I think it no disrespect to say that the ancient church went too far in attempting to fasten the Mosaic policy upon the governments of that period. But I do not think gentlemen will find that the prohibition of interest was due solely to the Mosaic system. It is to be ascribed in part to Christian philanthropy. Borrowers were poor, lenders were rich.

Nor was it the system of Moses alone. What greater name than that of Aristotle? He said money could not produce money, as it was, in its nature, barren. The earth could produce; its products could be consumed; but money produced nothing. Therefore, said the great Aristotle, money ought never to bear rent. Now who do you suppose was the first person that exposed this fallacy? Not one of his contemporaries, nor one of the philosophers of the middle period, but the great reformer, John Calvin, in one of his powerful Latin paragraphs, exploded the fallacy of Aristotle, and relieved mankind from its encumbrance. But how long do you think it had borne sway over the minds of men? Nineteen hundred years! One of the effects of the Reformation was to lessen the influence of these laws and maxims; yet Christians always took hold of them with great tenderness.

Gradually there came up a great deal of mercantile and manufacturing industry, and a necessity for capital; and the capitalists, instead of locking up their money, put it in a position where it might increase; in other words, they lent it. Gentlemen will see that capital is most called for where there is the most industry. A live country calls for capital, and can pay for it; a dead country cannot. After the discovery of America, capital was in demand, and men were ready to pay interest on it. Then the theologians were obliged to review their teachings. If it had come to this, that money must be had, and men would pay interest on it, ecclesiastical ethics must be revised. It was then noticed that in one of the parables, the man who got ten talents for his ten talents was praised —"Well done, good and faithful servant;" he had lent his money to usurers, and, it would seem, at a high interest. But philanthropy

still held on to the system, to this extent: your capitalists may lend money, but they shall not *extort;* they shall not receive more than its fair value. This is a moral law. To-day and here, the rate of legal interest is six per cent; but if, when the market value is five, a person takes six, he is morally as guilty of extortion, as if, when the value is six, he should take seven. He would be taking advantage of another's necessities, and receiving more than a fair value for money. The early laws had in view this object, to prevent the powerful lender getting more from the needy borrower than—what? Six per cent? No; there is nothing in nature that points to six per cent,—from getting more than the fair value at the time. I coincide with that entirely. I agree that if you could pass a law which should not *fix*, but *ascertain* the market value of money every day, that would be right. In early, simple times, the value could be ascertained, nearly. But as business increased, the means for ascertaining the rates failed. It was found at last that fixed legal rates could not be adjusted to the real value of money. Can it be done now? Let any man take up a newspaper and examine it, and he will see that money fluctuates not only week by week and day by day, but hour by hour. You would be obliged to have a commissioner on every curbstone, and a financial clock at the head of State Street, to record the changes by the minute; and then punish men who took excess, as ascertained by the clock!

The usury laws of this day do not stand on the principle of prohibiting extortion, but on that of fixing the market rate of interest by legislation. Having fixed a permanent and purely arbitrary rate, you treat lending at that rate, although it be above the market value, and therefore extortionate, as right; and treat lending above that rate, though below the market value, as wrong.

The rate of interest is governed by laws of trade. It depends upon the demand and the supply; not upon the amount of capital in the country, but the supply for loan. It is sometimes carelessly said that it depends upon the amount of capital in the country. You might as well say that the price of fish in Faneuil Hall Market to-day depends upon the quantity of fish in Massachusetts Bay. The rate of interest

depends upon the amount in the market for loan, and upon the character of the demand as well as its amount, because we must look at the security. When we speak of the market rate of interest, we assume that the security is perfect. If you cannot ascertain the rate of interest upon perfect security, so as to affix to it by legislation a standing rate which shall be its real value, still less can you do so as to all the degrees and kinds of inferior and questionable security. Nevertheless, your legislation has sought to keep interest down to one rate, in all cases alike.

Why, Mr. Speaker, place on this table before us, three samples of flour; one superfine, one fair, and one inferior. If, after the old style, you should wish to regulate by law the price of flour, would you compel the merchant to sell all these at one rate? Now, place on this table three notes, on which money is to be lent. One has perfectly good security, one inferior, and the third no security at all. Would you compel the capitalist to lend on all at one rate? Certainly not, in justice. Yet that is what you do by your usury laws. If times are such that the best paper must give six per cent, you will not permit the hirer to give or the lender to take more than that on the inferior paper. This is one of the absurdities of your usury laws. They not only take no account of the market of the world, which moves with the irresistible power of ocean tides, affecting proportionally all securities, good and bad; but they take no account of the quality of the securities offered for sale. If in time of panic the market rate on a note with perfect security is six per cent a month, the lender is permitted to take but one half per cent a month for the poorest security. He must take the same rate of interest on an inferior note for twelve months, as on a perfect note for twelve days. If a poor man, in dire need, with poor security, but his best, wishes to borrow, and a better note than his is worth six per cent, he is not permitted to offer anything above that.

It is time now Mr. Speaker, that the House took up the question of *practicability*. *Can* you keep down the rate of interest, by legislation, if you would? That question must be answered by gentlemen before they have a right to respond aye or no on the main question.

There is a good deal of instruction to be derived from the steady set of events. There has been a uniform tendency towards the abolition of the usury laws for the last eight hundred years, among liberal minds, and advocated upon the most enlightened reasons. Gentlemen who have defended the usury laws on this floor, as special friends of the poor, should be reminded that it has been the friends of the poor, the philanthropists, the statesmen of liberal ideas, who have advocated and carried the reduction or repeal of the usury laws.

In England, during the Regency, in 1818, a report was made by a committee of parliament, who examined the borrowers and the lenders, and came to the unanimous conclusion that the usury laws ought to be entirely repealed. That report went to the House of Commons, but parliament was not ready for it. Adam Smith found no excuse for usury laws except on two points, *to protect spendthrifts and repress projectors.* Toward the close of his life, he read the argument of Jeremy Bentham and acknowledged himself mistaken on those two points. So the Scotch financier, McCulloch, and Stuart Mill, and other writers of eminence, advocated the repeal of the usury laws. But they could not, at first, carry it through the House of Commons. It was opposed by a large class of persons, but not the same class who have opposed it here. It lay by ten years; was brought up again, and defeated; lay by ten years more, and in 1839 they went to this extent,—they abolished the usury laws on commercial paper that had less than twelve months to run. Then in 1850, they abolished the usury laws on everything but loans on real estate; and on those, interest could not exceed five per cent. The great landed proprietors of England opposed the repeal, and were the last men to yield their opposition, because they thought the usury laws enabled them to get money at lower rates on mortgage. Here, with us, an opposition comes from a class of small landowners, on the same grounds. They think they can get money for less, on their farms, if the law is retained.

The law remained in that state about five years, but in 1854 England abolished the usury laws altogether, by a bill similar in its features to that which we are acting upon to-day, but as to

which I am ashamed to say, the mother country is twelve years in advance of us. Money still continues to be loaned in England at much lower rates than here. It is an open market. Have the poor borrowers ever complained? We read with deep interest, as we ought, all that concerns the middle and lower classes of England; we read of the disabilities under which the poor suffer; and we see the reports of the processions of radical reformers, and I would ask if any of them complain because the usury laws have been abolished? Did Richard Cobden, or Stuart Mill,—does John Bright demand usury laws? Was it an article in the creed of the Chartists? Look over the banners of radical reformers in England. There is almost everything else there, but not a word about usury laws. The common people are satisfied that they are better off without them.

Look at Holland. Holland is a free country, a country dear to every lover of liberty. Holland fought for her freedom and religion, against Spain, in those noble wars, for principles so dear to every lover of liberty, the world over. Holland has no usury laws. But here are more poor, industrious people, in proportion to the population there, than almost anywhere else. What is the rate of interest here? It varies from three to five and a half per cent.

You have a right to respond that this may be a very good thing in England or Holland, but how will it be in Massachusetts? Let us look at the principle. Gentlemen need take into their minds but a single argument. If it were my own argument, I hope I should not be so vain as to call it unanswerable; but it is the argument of all the great writers for the last quarter of a century,—an argument which has shown from principle that the usury laws must be, and from statistics that they are, worse than nothing.

With your leave, I will put the argument thus. Suppose the natural rate of interest to be, here in Massachusetts, seven per cent. By the *natural* rate, I mean the rate it would come to, in the absence of legislative interference, if the borrower and lender came directly together in the market. Now appear the philanthropists, and say that seven per cent is too much for men to pay, and enact laws which prohibit the giving or taking more than six per cent. Suppose

there are fifty millions of capital in the market to be loaned, when the usury law goes into operation. What will be the effect of the law? I think we will all at least agree on this, that it will divide the capitalists into three classes: those that will lend at six per cent, those that will not lend at all, unless they get their money's worth, and those who will disobey the statute and take all they can get. I admit there will be a few of the first class, men who will lend at six per cent, money that is worth seven. They are men scrupulous about formal laws, although they see no moral wrong in the forbidden act. They are in the habit of investing in loans, and do not like to change their habits, or are too old, or inexperienced, or timid, to put their capital into business. But this class is not large, and is diminishing every year. The second class will not lend at less than the full value, and yet will not take the risks or disrepute of violating a law, nor resort to the circuities and chicanery and middlemen such forbidden loans entail. They invest in government securities,* or, if they are active and enterprising, turn their capital into business, add their own skill, care and industry to it, and make twelve per cent and more. The second class takes from the private loan market a large part of the supposed fifty millions,—perhaps a third or a half. The effect of this is to raise the rate; for the supply is lessened, and the demand is not, but becomes the more anxious and eager. Now, gentlemen will see to what condition such legislation has brought the borrower. He must have his money, or fail. It is no longer the natural rate of seven per cent, that he is to give, on perfect security, but nine or ten per cent, and he is brought to an inferior class of money lenders. But this is not all. Another element is forced in. There is insurance to be charged for the risk the lender takes in lending on illegal security; for, if the borrower will not turn against him and refuse to pay the interest, the borrower's assignee in bankruptcy, or his executor, may feel it his duty to do so. Nor is that all. Something is to be charged for the disrepute attending the transaction. But there is a larger addition still. These transactions require secrecy, circuity, transfers of notes,

* U. S. Government securities at the time this speech was made paid as high as 7.30 per cent interest.

drafts and fictitious exchanges, and above all, the middlemen who must be employed, that the real parties may not be known. How much do these middlemen charge? That you never know. No man on earth is so well placed for extortion, as the middleman, who holds the secret of both parties in his hand. As you have brought your borrower down to dealing with a less respectable, less responsible class of men, he must bear the consequences. And what rate does the distressed borrower at last pay for that which he could have got openly, like a man, face to face with the lender, at seven per cent, because you thought to force, by legislation, the market rate below its natural level?

Mr. Speaker, I have been assuming, so far, that the borrower offers satisfactory security. But suppose he does not. An honest but poor man, with a family, is a little behindhand, and must pay a debt, or have his property taken on execution; or an enterprising young man, with health, and skill, and character, but no capital, wishes to borrow a sum to put with his industry and skill, with a fair hope of profit. Neither of these men can give perfect security. All hangs on their lives or health. Death, or a long fever, lasting through the season, with leave them penniless; and in all probability, if they are young men, they hold their houses under purchase-money mortgages, and can give no landed security. If theoretically perfect security, driven to middlemen and circuitous transactions, ends in giving ten per cent, where will such borrowers as these be, in such hands? The strong and enterprising young man will give the utmost that his expected profits will allow him to give, without actual loss, for he must work; but the distressed debtor must sell, or let his creditor sell all he has, to meet the payment of his debt.

This leads me to call attention to another anomaly of the usury laws. You put the borrower under guardianship, as to money, and limit him to six per cent, whatever the market rate, whatever his need, and whatever his security. But you leave him his own master as to everything else. He must not borrow money at seven per cent, but he may sell the very ground under his feet. He cannot be trusted in the money market, but the pawnbroker's shop is open to him. He

may sell all he has, to gratify his passions or to meet his necessities, and no one can interfere to save his wife and children, unless he is so far gone as to be no longer *sui juris*. Take the case of the poor, honest debtor. Sickness or misfortune has left him in debt, and a hard creditor, or an institution or trustee that acts by rule, is pressing him to an execution. If he could borrow a thousand dollars, on a year or three years' loan he could pay the debt, and have a little with which to begin again. But with his poor security, and the high state of the market, he cannot get the money at six per cent. You prohibit him from giving seven, even he must sell the land under his feet, the house over the head of his wife and children, and all their useful or endeared furniture, which they may never get back, and sell it all at a ruinous loss, as is always the case in forced sales,—a loss of at least twenty-five per cent. And this to save him from paying more than six per cent! The debtor might have saved this by a loan for a year, more or less, at the market value of his security. What shall we say of such legislation? Is it not preposterous? Is it not discreditable? Is it not a shame upon our intelligence, and public spirit, and humanity?

But I have not yet presented to you the worst features of your law. I have taken ordinary times, when the natural rate is six or seven per cent, on theoretically perfect security. But what shall we say of those times of distress and panic,—of times when all rules and rates fail,—when the strong men bow themselves? The gentleman from Walpole* has told us, here in his place as a legislator—of all others bound to respect the laws,—he has told us that in the crisis of 1857 he paid, once, five per cent, a month. He must meet his notes or fail. That was not all. He felt bound in honor to pay his debts, if he could possibly get the money, that others might not fail who depended on him. He had a friend who had the money; it would bring more in the market, but he let Mr. Bird have it at five per cent, per month; and Mr. Bird has told us it was the cheapest money he ever borrowed, that he never paid interest so cheerfully, and that he felt grateful to

* Reference is here made to the Hon. Frank Bird, a leading manufacturer of Massachusetts.

he lender as a true friend in need. After such a statement as this,—nd it is but a sample of what thousands can tell us in every time of distress,—what is your six per cent law good for, as a financial restriction? Its moral aspects, I shall have occasion shortly to call your attention to. As soon as money begins to rise with the demand, and failures thicken, capital, proverbially timid, begins to withdraw itself, and as the crisis comes to its height, some will not lend at all, and others only at enormous interest; for it is in fact insurance upon ships on a lee shore. Then the Jews emerge from their alleys, and the curbstone brokers swarm, and need, and fear, and distrust, and avarice, act and react, until the end is a panic. Are your usury laws of any value then, to furnish money at six per cent? They are forgotten or laughed to scorn. The man who cannot borrow can sell, and merchants will sell at prices as ruinous as their loans could possibly be. But the usury laws are lost sight of long before the panic is reached. Their effect is felt only in the first stages, when, but for the law, capital would be let at its proper rate. Then the law drives away all who will not lend at the Quixotic rate of six per cent, and gives over all doubtful security to despair. In such times, its effect is to hurry the first steps, and to turn a simple stringency into a distress, and a distress into a panic.

Your laws make no allowance for changes in the state of the market. The British corn laws had a sliding scale. So, in several of the States, there is a scope allowed under the usury laws. In Indiana, Illinois and Iowa, the rate is between six and ten per cent; in Mississippi and Florida, between six and eight per cent; in Michigan and Wisconsin, between seven and ten per cent; in Minnesota, between seven and twelve per cent; in Texas, between eight and twelve per cent.; while in California, there have been no usury laws since 1850, with ten per cent, in the absence of a contract.* But we adhere to an iron rule, as they do in New York; and an attempt to allow a margin of from six to eight per cent, found no favor in this House. Members talk as if there were something in nature that pointed to six per cent;

* These rates have been in some instances changed since the time when this speech was made.

when in fact, the rate is rarely at six per cent. Not only do the rates allowed by law in those States vary from six per cent, to twelve, but I hold in my hand a letter from one of our first merchants, whose name would command the respect of this House, as well for his philanthropy and patriotism as for his financial skill, giving the details of the rates at which he has borrowed and lent money for the last five years, on the best security, and the average is nearer eight per cent, than seven. I have here also a schedule from the cashier of a bank in State Street, giving the rates charged yesterday for discounts on the best of paper, much of it from New York. It gives the names of parties, the amounts and terms. There is not one at six per cent, indeed none below seven, and varying from seven to seven and three-fourths. Gentlemen will see from this, how openly their laws are violated, even by the banks; for although these are National Banks, they are, by act of Congress, bound by the several State laws, as to discounts.

While the legal rate in New York is seven per cent, Massachusetts capital will go there; not the small quantities, I admit, for they will not pay for the trouble and risk; but capital held in large masses, on which a small advance insures a large profit.

There are causes for these different rates, in different States, as in the same States at different rates,—causes that are constantly in operation, and too subtle and volatile to be held in the chains of a permanent legislation.

I would now like to call the attention of the House to the moral aspect of this question. The spectacle on this floor the other day was a lesson not to be forgotten. We all knew that the usury laws were but little regarded at any time, and were swept out of sight in times of panic. But when a legislator rose in his place, in the very hall of legislation, and told his brother legislators, with an open brow and clear conscience, that he had paid five per cent a month, and thought it his highest duty to pay it, and esteemed the man who lent him money at that rate his best friend in need, did any of you think the less well of our respected friend? Did even the incongruity of such a declaration from a law-maker sugges

itself to your minds? But let me put you another supposition. Imagine, if you can, that the gentleman from Walpole (Mr. Bird), had obeyed the laws against usury, and gone down into bankruptcy, and swept others along with him, who had trusted to his solvency, rather than pay anything over six per cent, would you not have doubted either his sanity or his good faith? But let me put the case to you in a far stronger light. Imagine, if you can, that having taken this money from his friend at the agreed rate, and so saved himself and others from bankruptcy, he had done what the law of Massachusetts tempts him to do, expects him to do, and, if law is law, I have a right to say—commands him to do; suppose when pay-day came round, he had turned upon his friend, refused to pay him any interest, and deducted three times the excess from the money he had borrowed! It is not possible even to suppose such a thing of him; but suppose it of some imaginary man, some ideal keeper of the law. He could not show his face on 'Change! He could not have been elected to this House, where the very law is made which he had strictly followed!

It is usually said that laws should not stand upon the statute book, which have not the moral support of the community, because they lower the dignity of all government, and demoralize the public mind by familiarity with disobedience. But what shall we say of laws which not only the moral sentiment does not support, but which the natural sense of justice, the instinct of honor, actually condemns? In olden times the taking interest above the legal rate was a crime, punished by imprisonment. That penalty could not be enforced, because public sentiment condemned it. We receded so far as to make it a forfeiture of principal and interest. That failed, for the same reason. Men thought it too hard, and would not enforce it. We next receded with our penalties, until we came to the moderate infliction of the loss of all interest on the loan and a deduction from the principal of three times the excess over the legal rate. But this moderate penalty you cannot enforce. Yet it is all you have left; for the transaction is secret, and covered by a false statement of the principal sum, or by other means, and unless

the borrower turns against the lender and testifies, you can dc ing with the transaction; and the borrower had better pay any a of usury than incur the total loss of credit ever afterwards, would follow his turning upon the lender. Under usury the loan must always bear the aspect of legality, and cour juries render verdicts and judgments on extortionate loans w suspecting it. The poor borrower must suffer in silence,- bleed to death in secret. But, if there are no prohibitory la rate actually paid is more likely to be known, and public o be brought to bear upon the unreasonable lender, and sym if not relief, extended to the borrower.

But, in what attitude has this legislation placed our h Commonwealth? Unable to make usury a crime, she tem borrower by a large pecuniary reward, to commit an act of b towards the lender, for which the instincts of the meanest citizens will despise him. In the darkest regions of the cr law, dealing with men of blood and fraud, we tempt one betrayal of another, and employ spies, and false-colors; for suc are in a state of war against society. We are dealing with guilt, universally recognized as such, but even there, we c the thief that betrays the thief. But there is no element o or wrong about six per cent or seven per cent. The com recognizes no element of guilt in dealing with money at the r rate, if there be no fraud or extortion. And for fraud, or c or gross extortion or undue advantage taken, a court of equi afford relief. But the moral sentiment of the "least erected s in the community is above the temptation which your legi offers them, as the only means of enforcing itself. It is not f the jurisprudence of Massachusetts should bear the shame l

Let us examine, Mr. Speaker, the reasons—I would rather s excuses—for maintaining this system. All writers on political omy during the last fifty years, of whom I have information, h much they differ in other things, have agreed in condemning the laws. It is true the opponents of our bill have exhumed a pamphlet, written by the late Mr. Whipple of Rhode Islanc

spread it about the House, not without some effect. But do gentlemen know that, though republished some eight or ten years ago, for a special purpose, that pamphlet was written more than thirty years ago, as an article in a law magazine, by a gentleman of the last generation, whose ideas were drawn from the generation before that—before the time of Bentham, McCulloch, Mill, Wayland and the encyclopædists of Great Britain and America? Mr. Whipple advised Rhode Island to increase the severity of her usury laws, and to fall back upon the Statute of Anne. No doubt he thought that if Rhode Island would only rest her political system on the Charter of Charles II., and her financial system on the Statute of Anne, she would indeed be the model Commonwealth of America. But Rhode Island has followed the latter and wiser advice of her other eminent citizen, President Wayland, and repealed her usury laws altogether, as have Holland and California. Great Britain, I had the honor to remind you, repealed hers twelve years ago, and any man who would there ask for their re-enactment would be considered as insane as if he moved for the restoration of the Heptarchy.

But, the facts being all against the continuance of the usury laws, what are the theoretic excuses for their maintenance? It is said that the borrowing class is the feebler class; that the borrower is at the mercy of the lender and needs protection. I hope I have shown that if this were true, the usury laws fail to help him, at the only time he needs help, when the rates of interest are high, or his security is poor, —in fact that they make his condition the worse. But, Mr. Speaker, the relations between the borrower and the lender are not now, especially in New England, what they were once in history. The borrower is no longer the trembling suppliant at the threshold of the patrician lender. Who are the borrowers now? The railroad, manufacturing, steamboat and mining corporations. They are borrowers,—those great corporations that are suspected of controlling the politics of our States and towns. The State and National Governments are borrowers. All mercantile enterprises require loans of credit; and the great merchants and manufacturers are borrowers one day and lenders the next. The great builders are borrowers. One

of the members from Boston, who called himself a mechanic, spoke warmly for the right of the poor mechanic to get his loan at six per cent. But I find, on inquiry, that that member is a great builder; he builds those large blocks of houses, too costly for you or me, sir, to live in, and sells them for prices that we cannot afford to pay. He buys land and builds his houses upon borrowed money, and sells upon credit secured by mortgage. He fears no usury laws, as a lender; for his extra interest is put into the purchase money; and no doubt he would be glad to cheapen the rate of borrowing, where it is an actual money loan in. the market, for there he is a borrower. But, even so, I hope I have shown that his calculations are mistaken. Again, it is not the poor mechanic that is the borrower. The journeymen the member from Boston employs, are not borrowers. Hired laborers in this country seldom are. It is mostly enterprise that borrows, and capital borrowing more capital.

Who are the lenders in this country? I know that great capitalists and banks of discount are large lenders; but men of moderate capital are also lenders, sometimes singly and sometimes by association. But, sir, by a miracle of this century, the poorer classes, the day laborers, the seamstresses and household servants, the news-boys in the streets, have become capitalists, and lend to the rich and great. Formerly the poorer class of laborers, laying up their small sums of five or twenty dollars, too small to lend at interest, hid them away in stockings, or buried them in chimney corners, and were tempted to spend them because they had them at hand and were gaining nothing from them. A benign Providence put it into the heart and head of some persons early in this century, to establish a system by which these drops that fell upon the earth only to sink into it, were saved and trained into little rills, which flowed together and formed a steady stream of public credit. These, sir, are our Savings Banks.* These millions, constantly in the loan market, are almost entirely the property of our poorer classes. They form this new element that enters into the changed relations of the borrowing and lending classes in New England. Your usury laws extend to them; and, as the trus-

* Their deposits in 1880 were in excess of eight hundred millions of dollars.

tees of those banks do not think it just to the poor depositors to lend their money at six per cent, when they can lawfully get more, they have withdrawn a large share of these millions from the loan market, and invested it in government securities at over seven per cent, thus diminishing the supply, and necessarily increasing the rate of interest.*

It must be remembered, too, that the borrower in the small country town need no longer be subject to the one rich lender of the town. The rapid diffusion of information by railroad, telegraph, post, and especially the daily papers, will carry the rates of the money market almost daily into the remotest towns of New England. Money will find its level everywhere.

The only practical objection to the repeal, seemed to me to be, the fear that the banks of discount might combine and keep up an artificial rate of interest. I have made careful inquiries on this subject, and am satisfied that there is no more practical danger on that head, than the community must always incur in its financial transactions. The banks are numerous. There will be competition among them. And there is not only the competition of private lenders at home, but the competition from abroad. Capital is drawn toward demand. State lines and town lines are disregarded. Loans are made in a few minutes by telegraph; and it will more and more be the case that, when an inadequacy of supply to the demand, or a combination of lenders has raised the rate of usance, an influx from abroad will bring it to its natural level.

I desire to express my thanks to the House for the kind attention they have given me. My wish has been to satisfy the minds of the doubtful, and if possible to make converts of opponents. As for myself, sir, I shall vote for the repeal of the usury laws, because I do not think they aid the borrower, but rather bring him to a worse condition than he would be in, in an open market. They have balked the humane purposes that gave them life. I vote for their repeal, because I think them in violation of the immutable laws of trade, and

* The reader must bear in mind that the condition of affairs referred to, was that existing at the time this speech was made, namely, in 1867.

therefore necessarily leading to evil; because they are of no effect when the market rate is equal to or below the legal rate, and, when it is above, tend to frighten away capital, induce chicanery, circumventions, frauds and go-betweens, and to introduce the borrower to the worst class of lenders. I vote for their repeal, because they familiarize the community to the sight of a disobedience of law by the best of citizens, and consequently to a severance of law from morals. I vote for their repeal, because the steadily advancing public sentiment, gradually enlightened by generations of experience, no longer believes them politic or just, or regards the breach of them as a crime, an immorality, or even an impropriety. And lastly, sir, I vote for their repeal, because they place our beloved Commonwealth in the undignified position of tempting the borrower to commit the most ignominious of offences, in the vain effort to prevent that which no one considers to be a crime.

EFFECT OF THE REPEAL OF THE USURY LAWS OF MASSACHUSETTS.

THE usury laws of Massachusetts were repealed in 1867, mainly, as before stated, through the influence of the foregoing speech of Mr. Dana. As usual, the most gloomy anticipations were indulged by the opponents of the repeal, as well as confident predictions of a reconsideration of the act at an early day, as the results of a brief experience. What the actual effects have been, and the present temper of the people of Massachusetts, is well set forth in the following letter from Dudley P. Bailey, Esq., a well-known writer and authority on economic and fiscal subjects:—

Everett, Massachusetts,
July, 14, 1881.

MR. DAVID A. WELLS,

DEAR SIR:—In answer to your inquiry concerning the results flowing from the repeal of the usury laws of Massachusetts in 1867, I feel fully warranted in saying that the general judgment of well informed men, after an experience of fourteen years, approves the policy then adopted. While the usury laws were in force they

operated, so far as they had any effect at all, either to hinder borrowing or to cause a resort to various devices, injurious to commercial morality and expensive to the borrower, for the purpose of evading them. As showing how the usury laws hindered borrowing it may be stated that the largest amount of mortgages on real estate held by the savings banks of Massachusetts before the repeal was $18,408,749, in 1862, while in October, 1866, just previous to the repeal, the amount had fallen to only $16,145,891. Ten years later, in Oct., 1876, it had reached $121,151,105, and in 1880 it had only fallen to $82,431,984. Before the repeal the loans on real estate outstanding at any one time in Massachusetts probably never reached $100,000,000. They have since that event increased, according to a careful estimate made a few years ago, to about $450,000,000. These figures show conclusively how the usury laws hampered both borrowers and lenders and partially closed the door to loans on one of the most desirable of securities. In some cases these loans may have proved a curse instead of a blessing. The stupendous financial revolution of the last twenty years, resulting from our late iniquitous system of paper money with its depreciation at first, and its subsequent appreciation to the ruin of so many debtors, has in some measure counteracted the benefits which would naturally have resulted from the repeal. But these benefits still remain real and substantial. Industry and enterprise have been stimulated and many persons of small means have been enabled to secure homes of their own, as many more would have done but for the untoward influence of the causes just mentioned. While population has incleased 22½ per cent since 1870 the number of dwelling houses has increased 29 per cent, showing a perceptible increase in the material comfort enjoyed by the masses.

As to the question whether the current rates of interest were increased by the repeal, it would manifestly be the tendency of the enlarged demand for money thus created to cause some temporary advance in rates. It is well known that there was an increase in the rates of interest paid after the war. But it would be more correct to say that this rise caused the repeal than that the repeal caused the rise. This rise resulted from causes having more than a mere local operation, such as the heavy government loans and the great industrial and commercial development succeeding the war. To meet this emergency there was passed in Massachusetts in 1866, a year before the repeal of the usury laws, a law increasing the legal rate of interest for one year to seven and three-tenths per cent. The upward tendency continued until the great collapse in 1873. Eight per cent had then become a not uncommon rate on good mortgage security. On the 31st of October, before any considerable decline in rates had occurred, it appears that of $159,839,774 loaned by savings banks $82,026,800 bore interest at 7 per cent, $15,590,678 at seven and three-tenths per cent, $27,045,524 at 7½ per cent, and $30,067,622 at 8 per cent. The total of loans at or above 7 per cent was $155,621,721, or 97.4 per cent of the whole, leaving only $4,218,053, or 2.6 per cent, loaned at less than 7 per cent, and $2,431,351, or 1½ per cent, loaned at or below 6 per cent. It is safe to say that

these rates were as a rule more favorable to the borrower than those exacted by private lenders.

At this point a reaction commenced, and rates have now fallen to a lower point than any reached while the usury laws were in force. Cities and towns in good credit borrow readily at 4 to 5 per cent, and in case of temporary loans even as low as 3½ per cent. Money is loaned on first-rate mortgage security and in large sums as low as 5 per cent, and sometimes even at 4 per cent where the circumstances make it possible to evade double taxation. Only where the loans are small or on poor security does a higher rate than 6 per cent prevail. Of $131,840,604 loaned by the savings banks October 30, 1880, $5,618,207 bore interest at 3½ per cent, $8,549,447 at 4 per cent, $5,515,599 at 4½ per cent, $14,851,880 at 5 per cent, $4,462,882 at 5½ per cent, $53,214,139 at 6 per cent, $10,381,251 at 6½ per cent, and $19,096,279 at 7 per cent. Only $22,118,017, or 16.8 per cent, bore interest at or above 7 per cent, against 97.4 per cent of the loans in 1874, leaving $109,722,587, or 83.2 per cent of the total, bearing interest at or below 7 per cent, of which $99,012,336, or 75.1 per cent of the total, bore interest at or below 6 per cent against a proportion of only 1½ per cent in 1874. Eight per cent loans had almost entirely disappeared. Of the total state and local debt of Massachusetts, amounting to $109,900,000, only $5,100,000 bears interest at a rate above 6 per cent, while $104,800,000 bears interest at or below 6 per cent, $41,063,950 being at 6 per cent and $56,440,281 at 5 per cent. The 6 per cent obligations are loans of former years not yet redeemable. Otherwise they could easily be refunded at lower rates.

These facts show clearly that the repeal of the usury laws has not operated in the interest of lenders alone, but that it leaves rates of interest to be fixed according to the state of the market, which sometimes favors the borrower and sometimes the lender, working out an even-handed justice in the long run. So firmly is this policy of free trade in money now established in Massachusetts that all attempts to overthrow it have signally failed. A legislative committee had the matter under advisement in 1874, but after a protracted investigation a majority reported adversely to any change, and the subject dropped out of sight. So firmly convinced are both borrowers and lenders that they are competent to make their own bargains, unhampered by the restrictions of a meddlesome law, that no movement for a return to the former system commands any serious attention.

Respectfully yours,
DUDLEY P. BAILEY.

Another well-recognized authority, Hon. Carroll D. Wright, the well-known chief of the Massachusetts Bureau of Statistics of Labor, also thus expresses his opinion respecting the result of the repeals of the usury laws in Massachusetts:

Bureau of Statistics, Boston,
May 11th, 1881.

COMMONWEALTH OF MASSACHUSETTS,

I note your query as to usury laws. I am satisfied that the repeal was a good thing and did not result in increasing current rates.

Very truly yours,
CARROLL D. WRIGHT.

Boston, August 17, 1881.

I am fully satisfied that the repeal of the usury laws in Massachusetts has been productive of great benefit, and has not been followed by any of the evils which the opponents of repeal confidently anticipated and predicted.

EDWARD ATKINSON.

PRESENT STATUS OF USURY LAWS.

USURY laws no longer exist in *fourteen* of the states or territories of the Federal Union; and in none of these is it pretended that the people or business labor under disadvantage therefrom, as compared to the condition of things in other states or territories where a different policy is maintained. In *eight* states the only penalty imposed for taking interest in excess of the legal rate, is the forfeiture of the interest; and in *eight* more the lender forfeits only the excess of the contract rate over the legal rate. New York, Oregon, and Virginia are the only states which still maintain extreme usury laws, needing only the old-time provision, debarring the offender from the right of Christian burial, to make them equal in all respects to the pattern of the middle ages. In New York, where the statute in its most essential provisions is rarely enforced,* the recipient of usury forfeits both principal and interest,

* In New York City during the year 1880 the demand for the use of money for a time was such that loans were made at from 1-32 to ⅛ and (in a few rare instances) even ¼ per cent per day in addition to legal interest. In 1879, rates, during a period of stringency, reached ⅛ per day above the prescribed rate; which was equivalent to 144 per cent a year. Just before the panic in 1873, rates reached 1½ per day, or 547 per cent a year. From 20 to 78 times the rates prescribed by law were thus paid. The law of New York expressly ordaining that the hire of money should be at the rate of seven dollars for a hundred dollars for one year, and in the same proportion for a longer or shorter time, and prescribing heavy penalties for any violation of the same, was therefore a dead letter, wholly

and is made liable, in adition, to a fine and imprisonment. Virginia forfeits contract and exacts a penalty of twice the principal. Oregon forfeits principal, interest, and costs. Idaho Territory prescribes a fine of $300, or imprisonment of six months, or both.

Apart from the United States, England repealed her usury laws in 1854; Denmark in 1855; Spain in 1856; Sardinia, Holland, Norway, and the Swiss Canton of Geneva in 1857; Oldenburg in 1858; Bremen in 1859; Saxony and Sweden in 1864; Belgium in 1865; Prussia, the North German Confederation, and Austria (in part) in 1867.

As above stated, Usury Laws were abolished in Germany in 1867, their inefficacy having been scientifically proved. Within a recent period, however, the subject having again been brought up in the German *Bundesrath* for consideration, an inquiry was officially made of all the branch offices of the German bank, as to whether, in consequence of the abolition of the usury laws, an increase of usury and a rise of the rate of interest had been observed. The question was answered in the negative by all, and the opinion was expressed that the rate of interest should not be limited. Subsequently, a commission recommended an amendatory enactment to the Bundesrath for consideration; concerning which it may be said, that if Governments are to continue to interfere at all in respect to the use of the commodity money, and prescribe conditions for its employment which they would not think of prescribing in respect to the use of any other commodities, then the proposed enactment seems to have the minimum of objectionable features. The amendment reads as follows:—

Whosoever grants a loan, or prolongs an old loan and abuses the difficulties, the poverty, the inexperience, or carelessness of his client, by exacting promises that will bring pecuniary advantages to himself, which exceed the rate of interest, and are in no proportion with the service rendered, shall be punished for usury up to three months' imprisonment or fined up to 1,500 *marks.*

unsustained by public opinion, and without any effect in attempting to regulate the price of the most important of all commodities. In June, 1879, the legislature of New York, after consideration of the subject, refused to repeal her usury laws; but lowered the prescribed rate from 7 to 6 per cent. The alteration of rate has, however, produced no change in either public action or public opinion.

The state of Connecticut substantially repealed her statutes restricting the price to be paid for the loan of money in 1872. During the year ensuing, the money market was very stringent, and some of the Connecticut savings banks took advantage of this condition of affairs to advance the rate of interest on loans secured by mortgages on realty, from *six* to *eight* per cent. This procedure, however, excited so much of popular prejudice throughout the state, a prejudice which politicians found it for their interest to encourage, that at the meeting of the next legislature the repealing act of the previous year was repealed and the old law, with some additional stringent provisions, replaced upon the Statute Book. An examination of all facts in the case, proves, however, that the repeal of the provisions against usury during the brief time that it was operative, was, contrary to current public opinion, beneficial rather than injurious to the business interest of the state. Thus, during the continuance of the money stringency above noted, the business men of Connecticut, especially the manufacturers, experienced the usual temporary difficulty in obtaining all the financial accommodation that they desired from the local banks or other customary sources of supply; and had the former restrictions against local lending at more than six per cent been operative, they would have been compelled to resort as usual to the New York market, and to have sold their paper at the high market rates for money there and then current, ranging from 12 to 15, and even a greater percentage. But when it was for the first time popularly recognized that money could be loaned at any rate within the state, without the violation of any provisions of law, and was in demand at greater than the usual rates, it came forward in unexpectedly large amounts from many new and before unavailable local sources; and the business men of the state were enabled to supply themselves under conditions much more favorable than would have been the case had they been compelled to rely mainly on the New York market. At the same time the gain from the temporary high rates of interest accrued to the benefit of the local lenders—many of whom were persons of comparatively small capital—instead of the professional money-lenders and speculators of the large city.

As already stated, the speedy re-enactment of the usury laws in Connecticut after they had been repealed was due mainly to the action of certain savings banks of the state in advancing the rate of interest on their loans. For this the banks were subjected to severe popular criticism. It is also to be noted that in granting charters to Savings Banks, the different states of the Federal Union have generally forbidden such banks to lend at other than fixed low rates of interest; and have also imposed such taxes on the deposits as to limit the rates of profit which the savings banks can divide among their depositors. Singularly enough it does not seem to have occurred to the popular mind that all legislation of this character is legislation that involves an odious discrimination in favor of the rich and at the expense of the poor. Thus, the savings bank deposits represent mainly the results of the savings of the industrious and economical poor; who voluntarily deprive themselves of many present enjoyments and often of comforts, in order that they may guard against future contingencies of sickness, want, or old age; or make provision for the education or business prospects of their children. Why should not all these persons have the same right to receive the highest price for their money which the market will offer, as well as the highest price which the market will offer for their labor direct, or for the products of their labor in the form of potatoes, boots and shoes, fish, or other commodities? The rich man who has money to lend rarely fails to secure the highest market rate for it; and it is notorious that usury laws rarely interpose any effective obstacle in the way of his so doing. Then why should the poor be debarred from participating in the same profit and privilege? And to whose benefit does the restrictions imposed on the loans of savings banks accrue? Not to the poor, who as a rule cannot put up the required security for loans; but rather to the well-to-do, to the projectors of new enterprises, or to the agents of corporations, all of whom buy the use of money, as they buy other commodities, for the profit they expect to make over and above the purchase price, and who do not need any one to instruct them, whether it is expedient to purchase at one price rather than another.

LENDERS AND BORROWERS ALWAYS SILENT CO-PARTNERS.

There is always a silent co-partnership between the lender and borrower. If capital employed in production is remunerative, those who use it will compete with each other, and thus cause a high rate of interest; and this rule will be proportioned to the rate of profit on the production. This natural partnership between the money-lender and the money-borrower, usury laws attempt to contravene, but the attempt is never successful.

If warfare upon capital in the form of loans—which is generally popular—should be in the future more popular, and should be continued, it cannot be doubted that the loaning of capital would be retarded, and perhaps prevented. But the *lending* of money having once ceased, the selling of money—*i. e.*, the exchange of money for land, or other property—would continue, and with greater advantage to the seller; and the power of the capitalist, instead of being impaired, would really be increased by the change. For it is evident, that if no one will lend capital, those whose necessities compel them to borrow will have to sell their property, and at just those prices which the capitalist—who is naturally averse to owning and managing property except at a greater remuneration than the average return for money at interest—is willing to give. The aggregate number of persons who are willing to lend in any community, is always much larger than those who have such special knowledge of any particular class of property as will make them willing to buy. And so the class having this special knowledge, if there is no borrowing, will have special opportunities for the purchasing of property at reduced rates.

Usury laws are founded on the idea that it is possible to reduce the rate of interest—which is the rent of money—by statute enactment. But anything which obstructs or prevents the *rent* of money increases the *purchasing* or *selling* power of money. Those who have special knowledge about property and the command of capital can, under such circumstances, take the greatest conceivable usury, through the enforced sacrifice of property, through the necessities of its owners,

at low prices. These profits may be *fifty* or even *one hundred* per cent; but no law is violated, and the public does not complain. Accordingly no usury law can be effective which does not also embody, in addition to limitations on the rate of lending, provisions forbidding the purchase of property, except at prices established by statute. But an arbitrary edict of this character, in this age of the world, would be universally discarded and condemned. But it is instructive to here recall the circumstance, that in old times legislation on this subject of usury, if absurd and unjust, was generally logical; for while fixing the rent of money, it also established the purchasing power of money, by fixing the prices at which not merely commodities, but also labor should be sold. The believers in modern usury are not, therefore, believers in either reason or logic. "I never violate the usury laws," said a noted New York money-lender. "Why should I? I have only to bide my time, and when the necessities of the borrower become great, and he cannot command money at the legal rate, he will be forced to sell me his property at usurious rates."

The friend of the people who annually rises in the American state legislatures and proposes to enact legal measures looking to a compulsory and unnatural reduction of the rate of interest on capital, does not realize that if he could be successful in what he proposes, he would at the same time inflict a most serious blow upon labor; for capital and labor, in order to win any large measure of reward, have to ride the same horse; and any treatment, in a free country, which impairs the quality of the animal for carrying one, will not permanently increase its ability for carrying two. One of the shrewdest men of New England, who was the architect of a fortune for himself and many others, in the days when public expenditure meant expenditure for public purposes exclusively, was accustomed to say, "If you are looking for a good place to locate your boys in business, select those places where interest and taxes are the highest." And he was right: for assuming that honesty and discretion are the rules of action, such districts would be the ones where capital and labor would command the highest reward for their services; and where private wealth was willing to contribute the most for the public good.

W.

INTEREST LAWS IN THE UNITED STATES.

	State.	Rate Per Cent. Legal.	Special.	Penalty of Usury.
1.	Alabama	8	—	Forfeiture of interest.
2.	Arizona	10	§	None.
3.	Arkansas	6	10	None.
4.	California	10	§	None.
5.	Colorado	10	§	None.
6.	Connecticut	6	6	Forfeiture of all interest.
7.	Dakota	7	12	Forfeiture of contract.
8.	Delaware	6	6	" " "
9.	D. Columbia	6	10	" " all interest.
10.	Florida	8	§	None.
11.	Georgia	7	8	None.
12.	Idaho	*10	24	$300, or imprisonment 6 mos., or both.
13.	Illinois	6	8	Forfeiture of all the interest.
14.	Indiana	6	10	Forfeiture of excess of interest.
15.	Iowa	6	10	Forfeiture excess of interest and costs.
16.	Kansas	7	12	Forfeiture of excess over 12 per cent.
17.	Kentucky	6	6	Forfeiture of all interest.
18.	Louisiana	5	8	Forfeiture of all interest.
19.	Maine	6	—	Forfeiture of excess.
20.	Maryland	6	6	Forfeiture of excess of interest.
21.	Massachusetts	6	§	None (6 per cent. on judgments).
22.	Michigan	7	10	Forfeiture of excess of interest.
23.	Minnesota	7	10	Forfeiture of excess of interest.
24.	Mississippi	6	10	None.
25.	Missouri	6	10	Forfeiture of all interest.
26.	Montana	10	§	None.
27.	Nebraska	7	10	Forfeiture of all interest and costs.

State.	Rate Per Cent. *Legal.*	*Special.*	*Penalty of Usury.*
28. Nevada	10	§	None.
29. New Hampshire	6	6	Forfeiture of 3 times excess of interest.
30. New Jersey	6	6	Forfeiture of all interest and costs.
31. New Mexico	6	§	None.
32. New York	*6	6	Forfeiture of principal: $1,000 fine, and six months' imprisonment.
33. North Carolina	6	8	Forfeiture of all interest.
34. Ohio	6	8	Forfeiture of excess.
35. Oregon	10	12	Forfeiture of interest, principal and
36. Pennsylvania	6	6	Forfeiture of excess. [costs.
37. Rhode Island	†6	§	None.
38. South Carolina	7	7	None.
39. Tennessee	6	6	Forfeiture of excess over six per cent.
40. Texas	8	12	None.
41. Utah	10	§	None.
42. Vermont	6	‡7	Forfeiture of excess.
43. Virginia	6	‖	Forfeiture of contract and penalty of twice the principal.
44. Wash. Ter.	10	§	None.
45. West Virginia	6	6	Forfeiture of excess.
46. Wisconsin	7	10	Forfeiture of all the interest.
47. Wyoming	10	§	None.

* Usurers liable to arrest for misdemeanor.
† Rate on judgments unless otherwise expressed.
‡ On railroad bonds only.
§ No limit.
‖ No corporation can plead usury.

SOCIETY FOR POLITICAL EDUCATION

THE Society for Political Education has been organized by citizens who believe that the success of our methods of government depends on the ctive political influence of educated intelligence, and that parties are means. ot ends. It is non-partisan in its organization, and is not to be used for ny other purpose than the awakening of an intelligent interest in govern- nent methods and purposes, tending to restrain the abuse of parties, and to romote party morality on both sides.

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The right of each citizen to his free voice and vote must be upheld.

Office-holders must not control the suffrage.

The office should seek the man, and not the man the office.

Public service, in business positions, should depend solely on fitness and ood behavior.

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Labor has a right to the highest wages it can earn, unhindered by public r private tyranny.

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SOCIETY FOR POLITICAL EDUCATION

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